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MATT BLUNT

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MISSOURI REGISTER



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October 15, 2002	November 15, 2002	November 30, 2002	December 30, 2002
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December 2, 2002	January 2, 2003	January 29, 2003	February 28, 2003
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April 1, 2003	May 1, 2003	May 31, 2003	June 30, 2003
April 15, 2003	May 15, 2003	May 31, 2003	June 30, 2003

Documents will be accepted for filing on all regular workdays from 8:00 a.m. until 5:00 p.m. We encourage early filings to facilitate the timely publication of the *Missouri Register*. Orders of Rulemaking appearing in the *Missouri Register* will be published in the *Code of State Regulations* and become effective as listed in the chart above. Advance notice of large volume filings will facilitate their timely publication. We reserve the right to change the schedule due to special circumstances. Please check the latest publication to verify that no changes have been made in this schedule. To review the entire year's schedule, please check out the web site at <http://www.sos.state.mo.us/adrules/pubsched.asp>

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RULES—Cite material in the *Missouri Register* by volume and page number, for example, Vol. 26, *Missouri Register*, page 27. The approved short form of citation is 26 MoReg 27.

The rules are codified in the *Code of State Regulations* in this system—

Title	Code of State Regulations	Division	Chapter	Rule
1 Department	CSR	10- Agency, Division	1. General area regulated	010 Specific area regulated

They are properly cited by using the full citation , i.e., 1 CSR 10-1.010.

Each department of state government is assigned a title. Each agency or division in the department is assigned a division number. The agency then groups its rules into general subject matter areas called chapters and specific areas called rules. Within a rule, the first breakdown is called a section and is designated as (1). Subsection is (A) with further breakdown into paragraph 1., subparagraph A., part (I), subpart (a), item I. and subitem a.

RSMo—Cite material in the RSMo by date of legislative action. The note in parentheses gives the original and amended legislative history. The Office of the Revisor of Statutes recognizes that this practice gives users a concise legislative history.

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16. Publication of Statement of Ownership
 Publication required. Will be printed in the October 1, 2002 issue of this publication. Publication not required.

17. Signature and Title of Editor, Publisher, Business Manager or Owner

Date 9-13-02

I certify that all information furnished on this form is true and complete. I understand that anyone who furnishes false or misleading information on this form or who omits material or information requested on the form may be subject to criminal sanctions (including fines and imprisonment) and/or civil sanctions (including civil penalties).

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5. If the publication had Periodicals authorization as a general or requester publication, this Statement of Ownership, Management, and Circulation must be published; it must be printed in any issue in October or, if the publication is not published during October, the first issue printed after October.
6. In item 16, indicate the date of the issue in which this Statement of Ownership will be published.
7. Item 17 must be signed.

Failure to file or publish a statement of ownership may lead to suspension of Periodicals authorization.

FROM THIS ANGLE . . .

Tip on Timelines

Many agencies continue to have some problems keeping track of their timelines as to when they should/should not file certain documents in the various phases of rulemaking. If you are having difficulty in “counting” your days, please refer to the “Calendars and Timelines” tab in your rulemaking manual. This will assist you in counting calendar and/or legislative days; or, alternatively, contact us and we will be happy to assist.

Another useful tip that many agencies are now utilizing is once you have determined your critical dates in the rulemaking process; place those dates on your calendar as an “appointment” in Outlook. Your computer system will “flag” you that you must file your next step of the paperwork involved in the rulemaking process.

We hope this useful tip will help you in filing your paperwork on the appropriate date and avoid missing a date and, therefore, needing to begin again.

Rulemaking 1-2-3, Missouri Style Classes

Having difficulty with the rulemaking process? Do you have a new employee who is now responsible for filing rulemakings for your agency? Are you aware you can schedule a rulemaking class with our office for your agency? We will offer a training here at our office, we will come to your agency, we will offer one-on-one classes or design a class for your agency with specific questions for one or 100 people.

Please contact us if we may assist you in any way with the rulemaking process.



Lynne C. Angle
Director, Administrative Rules

Rules appearing under this heading are filed under the authority granted by section 536.025, RSMo 2000. An emergency rule may be adopted by an agency if the agency finds that an immediate danger to the public health, safety or welfare, or a compelling governmental interest requires emergency action; follows procedures best calculated to assure fairness to all interested persons and parties under the circumstances; follows procedures which comply with the protections extended by the Missouri and the *United States Constitutions*; limits the scope of such rule to the circumstances creating an emergency and requiring emergency procedure, and at the time of or prior to the adoption of such rule files with the secretary of state the text of the rule together with the specific facts, reasons and findings which support its conclusion that there is an immediate danger to the public health, safety or welfare which can be met only through the adoption of such rule and its reasons for concluding that the procedure employed is fair to all interested persons and parties under the circumstances.

Rules filed as emergency rules may be effective not less than ten (10) days after filing or at such later date as may be specified in the rule and may be terminated at any time by the state agency by filing an order with the secretary of state fixing the date of such termination, which order shall be published by the secretary of state in the *Missouri Register* as soon as practicable.

All emergency rules must state the period during which they are in effect, and in no case can they be in effect more than one hundred eighty (180) calendar days or (thirty) 30 legislative days, whichever period is longer. Emergency rules are not renewable, although an agency may at any time adopt an identical rule under the normal rulemaking procedures.

**Title 20—DEPARTMENT OF INSURANCE
Division 500—Property and Casualty
Chapter 6—Workers' Compensation and Employer's Liability**

EMERGENCY AMENDMENT

20 CSR 500-6.700 [Premium Discounts for Using Managed Care Programs] Workers' Compensation Managed Care Organizations. The department is amending the title of the rule, deleting sections (1), (2), and (5) through (8), modifying and renumbering sections (3) and (4), deleting two exhibits, and adding seven new sections and one new exhibit.

PURPOSE: The emergency amendment updates this rule to implement section 287.135, RSMo.

EMERGENCY STATEMENT: This amendment is an "emergency" version of a proposed amendment for which an order of rulemaking has also been submitted to the secretary of state. The final provisions of the two (2) versions are identical. They are designed to implement the provisions section 287.135, RSMo, which was enacted in 1993 as part of workers' compensation reforms contained in Senate Bill 251. Section 287.135, RSMo calls for the Department of Insurance to promulgate rules on a number of topics relating to workers' compensation managed care organizations (MCOs), including rules setting forth the criteria under which the fees charged by an MCO shall be reimbursed by an employer's insurer. The department has formally

attempted to promulgate such rules on three (3) previous occasions. The department's most recent previous attempt was disapproved by the General Assembly's Joint Committee on Administrative Rules (JCAR) at a hearing on March 7, 2002. During that hearing, JCAR clarified the legislative intent behind section 287.135, RSMo, and directed the department to submit new language to implement that section. Subsequently, during the regular legislative session of 2002, the General Assembly passed and the governor thereafter signed Senate Concurrent Resolution 58, which specifically directed the department "...to promulgate an emergency rule and a proposed rule with a sunset of December 31, 2002, which would provide a mechanism to pay managed care organizations, including those whose claims have been denied since the passage of Senate Bill No. 251 in 1993, based on the absence of a rule as required pursuant to Section 287.135, RSMo...." This emergency amendment is designed to carry out the directive of SCR 58 that an emergency rule be promulgated. This emergency amendment is necessary to preserve the compelling governmental interest of having an executive branch agency fulfill a mandate contained in legislation, duly enacted by the General Assembly and signed by the governor, calling for such an emergency rule. If an emergency version of this amendment is not implemented, the department's attempt to comply with this directive will be thwarted, blocking the department in the performance of its constitutional duty as an executive branch agency to faithfully execute the laws of this state. In addition, the sunset date of December 31, 2002 contained in SCR 58 demonstrates the General Assembly's intent that the issues surrounding this rule be wrapped up as soon as possible, and an emergency effective date for a rule on these issues is necessary to effectuate that intent. Since a hearing has already been held on the companion proposed amendment, since the department has responded to the various comments made regarding that proposal in an order of rulemaking to be published in the *Missouri Register*, and since the order of rulemaking has been in the possession of JCAR for a period of thirty (30) days, the department believes it has followed procedures best calculated to assure fairness to all interested persons and parties under the circumstances. The scope of this emergency amendment is limited to the conditions creating the emergency and complies with the protections extended in the *Missouri and United States Constitutions*. This emergency amendment was filed on September 16, 2002 and will become effective September 26, 2002, expires December 31, 2002.

I(1) Upon issuance or renewal of a Workers' Compensation insurance policy, there shall be a reduction in the total premium charged to an employer for the policy for the first three (3) years during which the employer contracts with a managed health care system which has met the certification requirements of this rule and which serves the geographic area in which the employer is located. The premium reduction shall be five percent (5%) of the total premium which would otherwise be charged to the employer for each of the three (3) initial policy years under the certified managed care system. An insurer may require the employer to notify it of the employer's intent to contract with certified managed care system and to execute any such contract, prior to the issue date or renewal date of the policy, before granting the reduction. This arrangement shall be evidenced by the following documents:

(A) An endorsement to the Workers' Compensation policy setting forth the use of the certified managed care system and the extension of the five percent (5%) reduction in premium. The endorsement may include provisions on the effect of the employer's use of providers outside the terms of the managed care agreement;

(B) A contract between the certified managed care system and the employer specifying the terms and conditions

associated with the use of the managed care system, including the employer's agreement that the use of the organization is the free exercise of the employer's right to choose a health care provider under section 287.140, RSMo;

(C) A certification of a managed care utilization form to be given to the employer's insurer documenting the existence of the contract specified in subsection (1)(B), as set forth in Exhibit II of this rule; and

(D) A Workers' Compensation insurer and a certified managed care system may also enter into an agreement specifying the terms and conditions associated with the use of the managed care system.

(2) For purposes of this rule, the term certified managed care system or system shall mean medical care cost containment arrangements such as preferred provider organizations (PPOs), health maintenance organizations (HMOs) and other direct employer/provider arrangements designed to provide incentives to medical care providers to manage the cost and utilization of care associated with claims covered by Workers' Compensation insurance, which have been approved by the department. The approval criteria for PPO arrangements are set forth in section (3) of this rule. The approval criteria for non-PPO arrangements shall be developed under section (8) of this rule.]

(1) Definitions.

(A) Access fee means the percentage of savings off usual and customary health care provider charges that is often charged by a managed care organization (MCO) as reimbursement for access to its network of providers.

(B) Bill re-pricing means a system for re-pricing charges for medical services to conform to levels contractually agreed to by health care providers, facilities and hospitals and through which discounted medical services are obtained.

(C) Case management means a collaborative process by which appropriately licensed and trained health care providers, coordinate, monitor and evaluate the delivery of that level of health care treatment which is necessary to assist an injured employee in reaching prompt maximum medical improvement, following prescribed medical treatment plans, and, achieving, where possible, the prompt and appropriate return to work. Case management includes "on-site case management" and "telephonic case management."

(D) Certified MCO means a workers' compensation managed care organization certified by the department.

(E) Cost savings analysis means a documentation of savings achieved through reduction of medical fees, through the use of utilization review techniques, through early employee return to work, or all of the above.

(F) Department means the Missouri Department of Insurance.

(G) Hospital bill auditing means a service designed to review the accuracy and applicability of hospital charges as well as to evaluate the medical necessity of all services and treatment rendered, which shall be considered distinct from utilization review.

(H) Insurer means any person or entity defined under sections 375.932 or 375.1002, RSMo, authorized to provide workers' compensation insurance in Missouri. The term shall include any employees, agents, third party administrators (TPAs) or others acting on behalf of such insurers.

(I) Managed care organization (MCO) means an organization, such as a preferred provider organization (PPO), a health maintenance organization (HMO) or other, direct employer/provider arrangements, designed to provide the appropriate procedures and incentives to medical providers necessary to manage the cost and utilization of care associated with claims covered by workers' compensation insurance. Unless the context clearly requires otherwise,

when the term MCO is used in this rule it will mean an MCO certified under the provisions of this rule.

(J) MCO administrative fee or administrative fee means any fee or charge for the reimbursement of the administrative services of an MCO, as opposed to any fee or charge for the reimbursement of a health care provider for the rendition of health care services, treatment or supplies. Such fees reimburse the MCO for the cost of organizing a network of health care providers, negotiating provider reimbursement rates, re-pricing bills, hospital bill auditing, provider bill auditing, tracking and coordinating care, pre-certification, utilization review, cost savings analysis and other MCO administrative functions. An MCO administrative fee may be in the form of an access fee, a percentage of savings off a provider's billed charges, a percentage of savings off average usual and customary fees as defined in an identified database, a dollar amount per hour, or some other method.

(K) On-site case management means case management performed in person by the case manager as the location requires.

(L) Payor means an insurer or TPA responsible for paying workers' compensation-related claim, including a bill for the fees of an MCO required to be reimbursed under this rule.

(M) Pre-certification means the process of reviewing planned nonemergency medical care to assure said care is reasonably required to cure and relieve the injured worker from the effects of the injury, as required under the Missouri Workers' Compensation Law.

(N) Provider bill auditing means a computer assisted retrospective service which verifies the accuracy and applicability of provider charges, their conformity with usual and customary charges and their conformity with any discounts from usual and customary charges or other adjustments negotiated between the provider and the MCO. Provider bill auditing also verifies causal relationships between injury and treatment, the necessity of treatment and the accuracy of medical bills prior to recommending payment.

(O) Telephonic case management means case management conducted by telephone, e-mail, or facsimile machine.

(P) TPA means a third party administrator as defined under sections 376.1075 to 376.1095, RSMo.

(Q) Utilization review means a set of formal techniques designed to monitor the use of, or evaluate the clinical necessity, appropriateness, efficacy, or efficiency of, health care services, procedures, or settings. Techniques may include ambulatory review, prospective review, second opinion, pre-certification, concurrent review, discharge planning or retrospective review. For purposes of this rule, utilization review shall not include case management.

(2) Employer's Right to Select an MCO or Health Care Provider.

(A) A Missouri employer shall have the right to select an MCO for the purpose of providing the employer with managed care services in relation to the health care required to be provided under the Missouri Workers' Compensation Law. The employer shall have the right to select such an MCO regardless of whether that selection is approved by the employer's insurer or the selection differs from that made by the employer's insurer. Although the insurer may not require the employer to select a particular MCO, it may discuss that selection with the employer. While an employer may voluntarily agree to use an MCO under contract with the insurer if the employer so chooses, the employer may also select another MCO.

(B) An employer may select an MCO at any time during the period of the employer's insurance policy. An insurer will be deemed to have been notified of that selection whenever the insurer receives an administrative fee invoice from the MCO as defined in subsection (3)(E), attached to the bill of a health care

provider for health care services provided to an injured employee of the insured employer.

(C) Nothing in this section shall limit an employer's right to select the health care provider as authorized under subsection 10 of section 287.140, RSMo. Although the insurer may not require the employer to use a particular health care provider, it may discuss that selection with the employer. While an employer may voluntarily agree to use the providers in an MCO network under contract with the insurer if the employer so chooses, the employer may also select a provider outside a particular MCO network.

(3) Coordination and Integration of Insurer and MCO Systems.

(A) A managed care organization and an insurer shall coordinate and integrate their internal operational systems relating to claim reporting, claim handling, medical case management and billings as required under this section, unless alternative arrangements are agreed to by the MCO and the insurer.

(B) Regarding claim reporting, an employer shall report all claims to the employer's insurance company. The employer may also report any such claims to the employer's MCO.

(C) The fact that the employer has selected an MCO shall not require the employer's insurer to modify its internal claims handling procedures beyond the requirements that the insurer shall cooperate with and reimburse the providers in the MCO network selected by the employer, and shall also reimburse the MCOs for its reasonable administrative fees. The insurer shall use whatever procedures the insurer ordinarily uses for dealing with non-network providers to accomplish such cooperation and reimbursement.

(D) The employer's right to select a health care provider under section 287.140.10, RSMo extends to the employer's right to select a case management nurse, so long as the nurse is operating within the scope of his or her license.

(E) An MCO shall use a standard administrative fee invoice when billing an insurer for reimbursement. An administrative fee invoice should contain the information listed below, but shall not be deemed insufficient due to the lack of any particular pieces of information so long as the document is sufficiently clear so that an insurer can determine that the document is from an MCO and that the MCO is requesting payment for MCO services, so long as the document also provides a reasonable method for the insurer to contact the MCO for further explanation.

1. The MCO name, address, telephone number, facsimile number, federal employee identification number (FEIN); e-mail address (if available) and department MCO certification number;

2. The employer's name;

3. The injured employee's name and Social Security number;

4. The medical provider's name and FEIN;

5. The date of the medical service;

6. The provider's usual and customary charge for the service, treatment or supplies;

7. The discounted charge negotiated by the MCO for those same services, treatment or supplies;

8. The savings resulting from the MCO's discounts;

9. The administrative fee of the MCO to be paid by the insurer relating to the service, treatment or supplies in question.

(4) Criteria for Determining the Reasonableness of MCO Fees.

(A) An employer's insurer shall reimburse the reasonable administrative fees of an MCO selected by a Missouri employer if the department has certified that MCO. However, no insurer shall be required to reimburse an administrative fee charged by a department-certified MCO unless the fee is reasonable in relation to both the managed care services provided and to the savings which result from those services.

(B) Where the type of MCO administrative fee is an access fee, there shall be a rebuttable presumption that the access fee is reasonable under subsection (A) above if it is less than or equal to twenty-five percent (25%) of the difference between the health care provider's usual and customary charge for the service, treatment or supplies in question and the amount the provider has agreed to accept under his contract with the MCO.

(C) Where the type of MCO fee is not an access fee, there shall be a rebuttable presumption that the fee is reasonable under subsection (A) above if it is the standard fee charged by the MCO to other payors, when those other payors include insurers with which the MCO has formal reimbursement agreements. Where the MCO charges different payors different amounts for the fee in question under its formal reimbursement agreements with said payors, there shall be a rebuttable presumption that the lowest of these fees is reasonable under subsection (A) above.

(D) Where a particular MCO fee charged by the MCO exceeds an amount deemed reasonable under subsections (B) or (C) above, an insurer may satisfy its reimbursement obligations under this section by paying an amount which does in fact conform to the appropriate subsection.

(5) Preconditions for an Insurer's Reimbursement of an MCO's Fees.

(A) An MCO fee must meet the following preconditions, which shall be presumed to be true unless proven otherwise by the insurer:

1. Relate to an injury or illness that is compensable under Chapter 287, RSMo;

2. Relate to a medically necessary procedure or a determination of medical necessity;

3. Relate to a medical claim that has previously been reported to the insurer by the employer;

4. Relate to an employer who has a contract with the insurer for workers' compensation insurance that covers the injury or illness;

5. Be from an MCO which, on the date of the bill charge, was certified by the department;

6. Be from an MCO with which the employer has a written contract to provide MCO services;

7. Be the MCO's standard reimbursement fee for the service in question;

8. Be by means of an administrative fee invoice as required under subsection (3)(E), submitted to the insurer in connection with the underlying health care provider bill; and

9. Be reasonable under section (4) above.

(B) If an MCO administrative fee meets the requirements of subsection (A) above, an insurer shall be required to pay the MCO fee stated on the MCO administrative fee invoice.

(C) MCOs seeking reimbursement from insurers should maintain a listing of their standard administrative fees for the periods for which reimbursements are sought. Such lists should disclose the terms of the MCO's standard discounting arrangement with its health care providers and also list any administrative fees of the MCO for specific administrative functions, which may include but which are not necessarily limited to the following activities:

1. Pre-certification;

2. Prospective utilization review;

3. Concurrent utilization review;

4. Telephonic case management;

5. On-site case management;

6. Retrospective utilization review;

7. Provider bill auditing;

8. Hospital bill auditing;

9. Bill repricing; and

10. Cost savings analysis.

(D) Individual insurers and MCOs are authorized to enter into alternative reimbursement arrangements under subsection 3 of section 287.135, RSMo. Any such alternative arrangements will take precedence over the provisions of this section for the MCO and the insurer that are parties to the agreement.

(6) Procedure for Reimbursement by Insurers of MCO Fees.

(A) An MCO seeking reimbursement from an employer's insurer for its MCO services shall submit an administrative fee invoice to the insurer documenting the MCO services provided and the reimbursement requested.

(B) The insurer shall pay an MCO fee which is reasonable under section (4) above and which meets the preconditions of section (5) above.

(C) To the degree there is a dispute between an MCO and an insurer under this section, said dispute may be submitted in writing to the department for its review. The dispute shall be handled in an advisory manner by the department, after providing the parties written notice of the dispute and notice of the opposing party's allegations.

(D) An MCO may accept partial payment of an amount tendered by an insurer without prejudice to the MCO's right to the full reimbursement authorized under this rule.

(E) Where a dispute between an insurer and an MCO regarding an access fee is based on a question regarding the amount of the health care provider's underlying usual and customary charge for the service, treatment or supplies in question, the MCO may establish the provider's usual and customary charge by means of an affidavit from the provider, or a duly authorized agent of the provider, attesting to the provider's usual and customary charge for the period and for the service, treatment or supplies in question, supported by contemporaneous bills to other payors from that period for the same service, treatment or supplies in question.

(F) An insurer may produce evidence to rebut the presumptions of sections (4) and (5) above, including evidence showing that the MCO fee in question is unreasonable in relation to either the managed care services provided or to the savings which result from those services. An MCO may produce evidence in support of said presumptions. Such evidence from either party may include information regarding:

1. The extent to which the medical case involved or required oversight and coordination by the MCO;

2. The fees normally paid by the insurer to other MCOs;

3. The fees normally charged by the MCO to other insurers, and to TPAs, self-insurers and individual employers;

4. The fees normally paid by other insurers to MCOs;

5. The fees normally charged by other MCOs to insurers, TPAs, self-insurers and individual employers;

6. What the health care provider has agreed to accept from the insurer under any agreements other than the MCO agreement in question;

7. The dollar amount of the MCO fee being sought compared to the dollar amount of the underlying usual and customary charge for the service of the health care provider;

8. What an independent database indicates is a usual and customary charge for the health care service, treatment or supplies in question;

9. What a governmental database indicates is a usual and customary charge for the service, treatment or supplies;

10. The charges allowed for the treatment, service, treatment or supplies when the government is the payor;

11. What has been determined to be a reasonable provider fee by the Division of Workers' Compensation under section 287.140.3, RSMo and regulation 8 CSR 50-2.030 for the medical procedure upon which the MCO fee dispute is based, where such a determination has been made;

12. What the department has determined to be a reasonable fee in prior disputes of a similar nature; or

13. Any other information considered relevant by the department.

(G) In order to expedite its review of disputes under this rule, the department may, in its discretion or at the request of either an insurer or an MCO, consolidate separate disputes between a particular MCO and a particular insurer or insurance company holding group into a single dispute where the separate disputes concern common issues or elements.

(H) After both sides have been afforded the opportunity to present their evidence and comment on the evidence presented by the other party, the department shall review said evidence. After its review, the department shall provide the parties with a written advisory opinion of its conclusions as to the reasonableness of the fees under section 287.135, RSMo. The department's advisory opinion on its conclusions as to the reasonableness of the MCO fee shall be subject to *de novo* review by a court of competent jurisdiction pursuant to section 536.150, RSMo.

/(3) (7) [For purposes of this rule, the term Workers' Compensation preferred provider organization (WC/PPO) shall mean a health care plan designed to coordinate employee care and control and contain costs for medical and rehabilitative services associated with Missouri Workers' Compensation claims through the use of special provider networks, utilization review and case management procedures.] Department Certification of MCOs. In order to be certified, *[a WC/PPO]* an MCO shall meet the following requirements:

(A) The *[WC/PPO]* MCO shall contract with member health care providers who are authorized to provide health care services in this state by the appropriate licensing authorities;

(B) Regarding contract requirements for medical and rehabilitative services, the *[WC/PPO]* MCO shall—

1. Provide for convenient access to the following types of providers in one (1) or more Missouri counties or cities not within a county:

- A. Primary care physicians;
- B. Subspecialty physicians;
- C. Rehabilitation centers; and
- D. Hospitals;

2. Provide for convenient access to primary care clinics which are specialized in providing occupational medical services;

3. Employ a medical director who is board-certified in occupational medicine or who possesses considerable experience with Missouri's workers' compensation system; and

4. Possess the capability for progressive rehabilitation services, including, but not limited to:

- A. Functional, objective capacity evaluations;
- B. Psychological testing; and
- C. Work hardening;

(C) Regarding additional *[WC/PPO]* MCO contract requirements, the *[WC/PPO]* MCO shall—

1. Provide employers with job-site presentations or other presentations regarding how to make proper use of the managed care services of the organization;

2. Base charges on negotiated rates of reimbursement to providers for the services specified in paragraph */(3) (7)(B)1.* comparable to the best group medical plans in the geographic market area served, including provisions for basing inpatient services charges on diagnosis-related group (DRG) rates;

3. Include the prepricing of claims;

4. Provide monthly reports, on a claim-by-claim basis, specifying customary charges, charges allowed under the *[WC/PPO]* MCO contract and the resulting savings, if any; *[and]*

5. Provide for the external management and oversight from the initial date of injury by a nonhealth care provider of the health care provider's rendition of medical care in all cases; and

6. Provide for an internal dispute resolution procedure that meets the requirements of subsection 2 of section 287.135, RSMo; and

(D) Be in addition, under the management and control of officers and directors who are competent to manage the *[WC/PPO]* MCO-managed health care operations, its finances, its compliance with agreements between itself and insurers or employers, or both, and its compliance with any applicable laws of Missouri.

[(4)] (8) Certification Procedure.

(A) For purposes of obtaining the department's certification of a *[WC/PPO]* MCO, the organization shall provide the department with the following materials:

1. Copies of any *[PPO]* MCO/employer and *[PPO]* MCO/insurer contracts to be used;
2. A general diagram of the *[WC/PPO's]* MCO's organizational structure;
3. A listing of the *[WC/PPO's]* MCO's officers and directors;
4. The *[WC/PPO's]* MCO's most recently audited financial report;
5. A thorough description of the *[WC/PPO's]* MCO's experience with the management of health care costs associated with Workers' Compensation claims and with other health care claims;
6. The geographic area, by county, the *[WC/PPO]* MCO plans to serve;
7. A copy of the licenses and any certificates of the *[board-certified]* medical director;
8. A complete list of all primary care physicians, subspecialist physicians, rehabilitation centers, hospitals and work hardening centers to be employed by the organization;
9. The estimated savings to employers and insurers from the use of the organization;
10. The outline of the operation of the *[WC/PPO]* MCO to be provided to employers explaining their rights and responsibilities; *[and]*

11. The MCO's dispute resolution procedures; and

[(1)] 12. Any other materials requested by the director.

(B) The materials specified in subsection *[(4)](8)(A)* shall be retained by the department. Any significant changes to the nature of the *[WC/PPO's]* MCO's operations as reflected in these materials shall be reported to the department, but these reports need not be made more than twice a year, as measured from the date of the granting of any certification.

(C) The department shall review these documents and grant certification, on the form contained in Exhibit I of this rule, **included herein**, to those *[WC/PPOs]* MCOs deemed to meet the criteria set forth in this rule. Any departmental decision to deny certification shall be accompanied by a written explanation by the department of the reasons for denial.

(D) The department may suspend or revoke the certification of a *[WC/PPO]* MCO at any time it establishes that the criteria set forth in this rule are no longer being met. Any such organization may request a hearing before the director on that suspension or revocation.

(E) MCOs previously certified need not be re-certified during the period of this rule.

[(5)] Insurers writing Workers' Compensation insurance in Missouri may contract with a certified managed care system. This contract may cover all employers insured by the insurer in the state, any class or subclass of employers, any employers located in a particular geographic region, or on any other basis which does not result in unfair discrimination under section 375.936(11), RSMo. Any employers who participate in this arrangement shall execute the contract required in subsection (1)(B) of this rule. For purposes of encouraging its insured employers to use a managed care system with which it has contracted, an insurer may offer

premium reductions in excess of those required in section (1) of this rule. Nothing shall preclude an insurer from discussing the relative merits of different managed care systems with its insureds.

(6) Where an insurer has not contracted with a certified managed care system in a given geographic region, but that a system does operate in that region, upon a request by an insured employer, the insurer shall provide the insured the premium reduction specified in section (1) of this rule so long as the certified system is willing to provide health care services to the employer. The insurer, however, may apply the five percent (5%) premium reduction specified in section (1) only to that portion of the employer's operations occurring in the geographic regions served by the certified system.

(7) Nothing contained in this rule shall be interpreted as precluding an employer from taking advantage of other noncertified managed care options at his/her own expense, particularly where the employer's operations are located outside the geographic territory of a certified managed care system. The use of this system, however, shall not entitle the employer to a premium reduction by its insurer.

(8) The director shall establish an informal task force for fostering the widest possible use of managed care systems in Missouri in relation to Workers' Compensation insurance. The task force may consist of volunteers representing insurers, managed care providers, employers and other interested parties. The task force will assist the department in developing approval criteria for approving additional managed care systems in Missouri. The panel will assist the director in developing approval criteria for PPOs that do not meet the criteria of section (3) of this rule, and of other managed care systems such as HMOs and direct employer/provider contracts, and the appropriate level of premium discount to be associated with these systems. They also may assist in the development of performance standards to measure the effectiveness of all managed care systems associated with Workers' Compensation insurance. All meetings of the advisory panel will be subject to the state's open meetings law.

(9) An insurer need provide a premium discount to an insured employer only for a three (3)-year period, after which time any reduction in the employer's premium as a result of the use of managed care services shall be reflected in the employer's experience modification factor. An employer shall not be entitled to more than three (3) years of specified premium reductions by reason of changing insurers, changing managed care systems or changing the ownership of the employer. Change of ownership rules regarding employers approved by the department concerning Workers' Compensation shall apply to these cases.]

(9) Termination Date. This rule shall terminate December 31, 2002.

Exhibit I

Certificate of Authority

Managed Care System for Workers' Compensation

It is Hereby Certified That

(Enter name of Managed Care Organization)

meets the certification requirements of Section 287.135 of the Revised Statutes of Missouri and Regulation 20 CSR 500-6.700. (Enter name of MCO) has been assigned the following departmental identification number: **MCO No. XX**.

This certificate shall remain in full force and effect until suspended or revoked by the Director.

IN WITNESS WHEREOF, I have hereto set my hand and caused to be hereto affixed the Seal of said Department. Done in my office in the City of Jefferson, this (Enter date).

Director of Insurance

AUTHORITY: sections 287.135 [287.320, RSMo Supp. 1992] and 374.045, RSMo [1986] 2000. Emergency rule filed Aug. 31, 1992, effective Nov. 1, 1992, expired Feb. 28, 1993. Original rule filed April 14, 1992, effective Feb. 26, 1993. Amended: Filed May 3, 2002. Emergency amendment filed Sept. 16, 2002, effective Sept. 26, 2002, expires Dec. 31, 2002. An order of rulemaking on a proposed amendment covering this same material will be published in the Missouri Register.

Under this heading will appear the text of proposed rules and changes. The notice of proposed rulemaking is required to contain an explanation of any new rule or any change in an existing rule and the reasons therefor. This is set out in the Purpose section with each rule. Also required is a citation to the legal authority to make rules. This appears following the text of the rule, after the word "Authority."

Entirely new rules are printed without any special symbol under the heading of the proposed rule. If an existing rule is to be amended or rescinded, it will have a heading of proposed amendment or proposed rescission. Rules which are proposed to be amended will have new matter printed in boldface type and matter to be deleted placed in brackets.

An important function of the *Missouri Register* is to solicit and encourage public participation in the rulemaking process. The law provides that for every proposed rule, amendment or rescission there must be a notice that anyone may comment on the proposed action. This comment may take different forms.

If an agency is required by statute to hold a public hearing before making any new rules, then a Notice of Public Hearing will appear following the text of the rule. Hearing dates must be at least thirty (30) days after publication of the notice in the *Missouri Register*. If no hearing is planned or required, the agency must give a Notice to Submit Comments. This allows anyone to file statements in support of or in opposition to the proposed action with the agency within a specified time, no less than thirty (30) days after publication of the notice in the *Missouri Register*.

An agency may hold a public hearing on a rule even though not required by law to hold one. If an agency allows comments to be received following the hearing date, the close of comments date will be used as the beginning day in the ninety (90)-day-count necessary for the filing of the order of rulemaking.

If an agency decides to hold a public hearing after planning not to, it must withdraw the earlier notice and file a new notice of proposed rulemaking and schedule a hearing for a date not less than thirty (30) days from the date of publication of the new notice.

Clover, Pondberry, Eastern Prairie Fringed Orchid, Western Prairie Fringed Orchid, **Virginia Sneezeweed**.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.240, RSMo 2000. Original rule filed Aug. 15, 1973, effective Dec. 31, 1973. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Aug. 30, 2002.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with John W. Smith, Deputy Director, Department of Conservation, PO Box 180, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 3—DEPARTMENT OF CONSERVATION

Division 10—Conservation Commission

Chapter 9—Wildlife Code: Confined Wildlife: Privileges, Permits, Standards

PROPOSED AMENDMENT

3 CSR 10-9.566 Licensed Hunting Preserve: Records Required. The commission is amending the text of the rule and dividing it into sections.

PURPOSE: This amendment eliminates the requirement that a department form be used to record shooting area activities on game bird hunting preserves, and instead outlines the record keeping information that is required.

(1) **[Licensed]** Big game hunting preserve permittees shall keep a current record, by date, of the number of each species held, acquired, propagated, sold, released, the number of each species taken on the preserve and the full name, address, and permit number (if applicable) of each buyer, seller, shooter and/or taker, on forms provided by the department.

(2) Game bird hunting preserve permittees shall keep an accurate permanent record of the number of each species acquired, propagated, sold, released, the number of each species taken and the full name and address of the taker.

(3) These records and applicable state and federal animal health records and permits for each animal shall be maintained on the premises of the licensed hunting preserve and shall be subject to inspection by an authorized agent of the department at any reasonable time.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. Emergency rule filed March 11, 2002, effective March 21, 2002, expired Sept. 16, 2002. Original rule filed March 11, 2002, effective July 30, 2002. Amended: Filed Aug. 30, 2002.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

Proposed Amendment Text Reminder:

Boldface text indicates new matter.

[Bracketed text indicates matter being deleted.]

Title 3—DEPARTMENT OF CONSERVATION

Division 10—Conservation Commission

Chapter 4—Wildlife Code: General Provisions

PROPOSED AMENDMENT

3 CSR 10-4.111 Endangered Species. The commission proposes to amend subsection (3)(F) of this rule.

PURPOSE: This amendment adds Virginia Sneezeweed to the list of endangered plants in Missouri.

(3) For the purpose of this rule, endangered species of wildlife and plants shall include the following native species designated as endangered in Missouri:

(F) Plants: Small Whorled Pogonia, Mead's Milkweed, Decurrent False Aster, Missouri Bladderpod, Geocarpon, Running Buffalo

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with John W. Smith, Deputy Director, Department of Conservation, PO Box 180, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 9—Wildlife Code: Confined Wildlife: Privileges, Permits, Standards

PROPOSED AMENDMENT

3 CSR 10-9.627 Dog Training Area Permit. The commission proposes to amend provisions of this rule, amend the purpose and delete the form that follows this rule in the *Code of State Regulations*.

PURPOSE: This amendment eliminates the need for banding game birds taken on dog training areas. Instead, a dated receipt showing the name, address and permit number of the taker, the number and species of game birds taken, and the dog training area permittee's name and permit number will be required.

PURPOSE: This rule establishes a permit to operate a bird dog training area [and sets requirements for these operations].

[A dog training area permit is required to operate a dog training area, and to purchase, hold, release and shoot on the training area legally acquired pheasants, exotic partridge and quail as an aid to dog training. Dog training areas shall be a single tract of land not more than twenty (20) acres in size and posted with signs, which sign is incorporated into this rule by reference, specified by the department. Shooting privileges shall be limited to the individual permittee and not more than two (2) training assistants, whose names shall be listed on the permit application and specified in the permit. All shooters shall possess the prescribed hunting permit. The permittee shall attach to each game bird killed on the area a leg band obtained from the department at a cost of ten dollars (\$10) per hundred (100) bands, and no game birds shall be transported from the area without the prescribed leg band.] To operate a dog training area, and to purchase, hold, release and shoot on the training area legally acquired pheasants, exotic partridge and quail. Fee: twenty dollars (\$20).

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. Original rule filed Aug. 31, 1965, effective Dec. 31, 1965. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Aug. 30, 2002.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with John W. Smith, Deputy Director, Department of Conservation, PO Box 180, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 9—Wildlife Code: Confined Wildlife: Privileges, Permits, Standards

PROPOSED RULE

3 CSR 10-9.628 Dog Training Area: Privileges

PURPOSE: This rule clarifies the privileges and responsibilities under this permit by creation of a new rule, and clarifies that more than one (1) dog training area permit may be issued for the same tract of land.

(1) A dog training area permit is required to operate a dog training area, and to purchase, hold, release and shoot on the training area legally acquired pheasants, exotic partridge and quail as an aid to dog training. Receipts for all game birds purchased or held must be maintained, and are subject to inspection by an authorized agent of the department at any reasonable time. Game birds held for more than twenty-four (24) hours must be confined in facilities that meet standards specified in 3 CSR 10-9.220.

(2) Dog training areas shall be a single tract of land not more than twenty (20) acres in size and posted with signs, which sign is included herein, specified by the department. Multiple dog training area permits may be issued for a single tract of land.

(3) Shooting privileges shall be limited to the individual permittee and not more than two (2) training assistants, whose names shall be listed on the permit application and specified in the permit. All shooters shall possess the prescribed hunting permit.

(4) Game birds taken on a dog training area may be possessed and transported from the area only when accompanied by a receipt listing the date, number and species taken, and the dog training area permittee's name and permit number; or when accompanied by an approved transportation sticker for each game bird taken. Transportation stickers must be purchased from the department by the dog training area permittee. Legally acquired game birds may be taken in any numbers on such areas.

**DOG TRAINING
AREA
BOUNDARY**

**OPERATED UNDER MISSOURI CONSERVATION
COMMISSION PERMIT**

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. This rule previously filed as 3 CSR 10-9.627. Original rule filed Aug. 30, 2002.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with John W. Smith, Deputy Director, Department of Conservation, PO Box 180, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 100—Division of Credit Unions
Chapter 2—State-Chartered Credit Unions

PROPOSED RULE

4 CSR 100-2.005 Frequency of Credit Union Examinations

PURPOSE: This rule sets forth the frequency of credit union examinations and the factors the director may consider when determining the frequency of credit union examinations.

(1) The director of the Division of Credit Unions, or the director's agents, may examine a credit union at any time and shall have free access to all books, papers, securities, and other sources of information pertaining to the credit union.

(2) Qualifying credit unions, as determined by the director, shall be examined no less frequently than every eighteen (18) months. All other credit unions shall be examined annually.

(3) The factors the director may consider, when determining whether or not a credit union may qualify for examinations less frequently than annually, may include, but shall not be limited to:

(A) The credit union has been in operation for ten (10) years;
 (B) The credit union has not been operating under a Net Worth Restoration Plan or Letter of Understanding and Agreement within the preceding twelve (12) months;

(C) The credit union has not been operating under an administrative order within the preceding twelve (12) months;
 (D) The credit union has not experienced major and potentially adverse changes in its balance sheet structure within the preceding twelve (12) months;

(E) The credit union has maintained a positive return on average assets;

(F) The credit union has not implemented any new programs with high risk to its balance sheet within the preceding twelve (12) months;
 (G) The credit union has a net worth ratio of greater than seven percent (7%);
 (H) The credit union has implemented an adequate asset liability management mechanism;

(I) The credit union has a history of maintaining accurate and current books and records;
 (J) The tenure and quality of the credit union's management;
 (K) General economic conditions.

AUTHORITY: section 370.120, RSMo Supp. 2002. Original rule filed Aug. 29, 2002.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Division of Credit Unions, John P. Smith, Director, PO Box 1607, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 5—DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION

Division 80—Teacher Quality and Urban Education
Chapter 800—[Teacher Certification and Professional Conduct and Investigations] Educator Licensure

PROPOSED AMENDMENT

5 CSR 80-800.380 Required Assessments for Professional Education Certification in Missouri. The State Board of Education is proposing to amend subsections (1)(A), (1)(C), (1)(D) and Appendix A.

PURPOSE: This amendment updates certification requirements in the *Compendium of Missouri Certification Requirements*, makes new legislative changes for out-of-state teachers with five (5) years experience in the same teaching area and adds the exit assessment for a speech-language pathologist.

(1) Each applicant seeking a Missouri certificate of license to teach will successfully complete an exit assessment to measure the applicant's competency in subject matter, pedagogical knowledge, or both, prior to being granted the certificate. An exemption exists if the applicant holds a valid certificate of license to teach from another state and has five (5) years teaching experience in the same school district in the curriculum area and approximate grade levels in another state. That applicant may obtain a Missouri certificate of license to teach upon completion of five (5) years teaching in Missouri public schools.

(A) The State Board of Education (board) has selected the Praxis II: Content Knowledge or Specialty Area assessments and the Principles of Learning and Teaching assessments developed by the Educational Testing Service (ETS) as the exit assessments for certificates of license to teach. Qualifying scores are established by the board and published by ETS for each assessment designated for an area of certification.

1. Applicants seeking initial certificates of license to teach must complete and achieve a Missouri qualifying score in the content knowledge or specialty area assessment in their major area of preparation or the appropriate principles of learning and teaching assessment if no content knowledge or specialty area assessment is designated, except in the areas of special education, student services, and administration (see Appendix A, which is included herein).

2. Applicants for a Missouri certificate of license to teach, having a valid certificate of license to teach in the same or a closely aligned area of certification from another state, having taken that state's required subject or specialty area assessment(s) for that certification and achieved that state's passing score(s), and having at least two (2) years of full-time professional experience in education in the area for which they are seeking Missouri certification, shall not be required to take the designated assessment(s) in Missouri in order to

receive the Missouri certificate of license to teach. If no subject or specialty area assessment is required in the state from which the applicant holds a valid certificate of license to teach, the applicant shall successfully complete the assessment(s) designated by the board in order to receive the Missouri certificate of license to teach.

3. Applicants holding a valid Missouri professional or life certificate of license to teach in a content area who are seeking additional certificate(s) of license to teach in other content areas, will receive the additional certificate(s) upon meeting either of the following conditions:

A. Complete and achieve a Missouri qualifying score for the Praxis II content knowledge or specialty area assessment designated for the certificate of license to teach, except for the areas of unified science, special education other than mild/moderate cross-categorical disabilities, speech-language specialist, student services, administration, vocational-technical, and adult education and literacy; or

B. Successfully complete the applicable certification requirements as set forth in the *Compendium of Missouri Certification Requirements (compendium)*, which is incorporated by reference and made a part of this rule.

4. Applicants holding a valid Missouri professional or life certificate of license to teach in a secondary content area who are seeking additional certification for middle school in the same content area, will receive the additional certification upon meeting either of the following conditions:

A. Complete and achieve a Missouri qualifying score for the Praxis II: Principles of Learning and Teaching, grades five through nine (5–9), assessment; or

B. Successfully complete the applicable certification requirements for middle school education, grades five through nine (5–9), as set forth in the *[Compendium of Missouri Certification Requirements, which is incorporated by reference and made a part of this rule] (compendium)*.

(C) The board has selected the School Leaders Licensure Assessment (SLLA) developed by ETS to assess the attainment of competencies required for the building-level administrator certificate of license to teach (see Appendix A¹, which is incorporated by reference and made a part of this rule). A minimum qualifying score for this assessment is established by the board.

(D) The board has selected the School Superintendent Assessment (SSA) developed by ETS to assess the attainment of competencies required for the district-level administrator certificate of license to teach (see Appendix A¹, which is incorporated by reference and made a part of this rule). A minimum qualifying score for this assessment is established by the board.

APPENDIX A
ASSESSMENTS DESIGNATED FOR CERTIFICATION IN MISSOURI

The Praxis® assessments listed below have been designated by the State Board of Education to fulfill the assessment requirement for certification in Missouri. The assessments are listed beside the certificates to which they correspond.

Missouri Certificate of License to Teach	Test Code	Designated Assessment
Early Childhood Education, Birth–Grade 3	10020	Early Childhood Education
Early Childhood Special Education, Birth–Grade 3	10690	Special Education: Preschool/Early Childhood
Elementary Education, Grades 1–6	10011	Elementary Education: Curriculum, Instruction, and Assessment
Middle School Education, Grades 5–9	—	—
Language Arts	10049	MS English-Language Arts: Content Knowledge
Mathematics	20069	MS Mathematics: Content Knowledge
Science	10439	MS Science: Content Knowledge
Social Science	20089	MS Social Studies: Content Knowledge
Other Middle School Subject Areas	30523	Principles of Learning and Teaching, Grades 5–9
Secondary Education, Grades 9–12 (except as noted)	—	—
Agriculture	10700	Agriculture
Art K–12, 9–12	10133	Art: Content Knowledge
Business Education	10100	Business Education
English	10041	English Language, Literature and Composition: Content Knowledge
Family and Consumer Science ¹	10120	Family and Consumer Sciences
Vocational and Non-Vocational		
Foreign Language:		
French K–12	20173	French: Content Knowledge
German K–12	20181	German: Content Knowledge
Spanish K–12	10191	Spanish: Content Knowledge
Health K–12, 9–12	20550	Health Education
Industrial Technology	10050	Technology Education
Library Media Specialist K–12	10310	Library Media Specialist
Marketing and Distributive Education	10560	Marketing Education
Mathematics	10061	Mathematics: Content Knowledge
Music (Instrumental, Vocal) K–12	10113	Music: Content Knowledge
Physical Education K–9, K–12, 9–12	10091	Physical Education: Content Knowledge
Science:		
Biology	20235	Biology: Content Knowledge, Part I
Chemistry	20245	Chemistry: Content Knowledge
Earth Science	20571	Earth Science: Content Knowledge
General Science	10435	General Science: Content Knowledge
Physics	10265	Physics: Content Knowledge
Social Science	10081	Social Studies: Content Knowledge
Special Education K–12		
Mild-Moderate Cross-Categorical Disabilities ²	20353 and 10542	Education of Exceptional Students: Core Content Knowledge Education of Exceptional Students: Mild to Moderate Disabilities
Special Education K–12 ³	10350	Special Education
Mild-Moderate Disabilities (except cross-categorical), Blind/Partially Sighted, Hearing Impaired, Severely Developmentally Disabled		
Speech// <i>Theater/ Theatre</i>	10220	Speech Communication
Speech and Language Specialist K–12 ⁵	20330	Speech-Language Pathology
Speech and Language Pathologist K–12:⁵	20330	Speech-Language Pathology
Unified Science: ⁴	—	—
Biology	20235	Biology: Content Knowledge
Chemistry	20245	Chemistry: Content Knowledge
Physics	10265	Physics: Content Knowledge
K–12 or 9–12 teaching certification for which no specialty area assessment or content knowledge assessment is designated.	30524	Principles of Learning and Teaching, Grades 7–12
School Counselor K–8, 7–12 ⁵	20420	School Guidance and Counseling
School Psychologist K–12 ⁵	10400	School Psychologist

Missouri Certificate of License to Teach

Test Code

Designated Assessment

Building-Level Administrator ⁵	11010	School Leaders Licensure Assessment (SLLA)
Principal K-8, 9-12		
Special Education Administrator K-12		
Vocational School Director		

District-Level Administrator (Superintendent) K-12⁵ 11020 School Superintendent Assessment (SSA)

1. Additional certification by completion of the designated assessment only is limited to Non-Vocational.
2. Additional certification by completion of the designated assessments only is limited to Mild-Moderate Cross-Categorical Disabilities.
3. Additional certification by completion of the designated assessment only is not applicable in these categories of special education.
4. Not available by completion of the designated assessment only; also requires completion of a program of study for the unified science core with the area of specialization from a state-approved institution.
5. Not available by completion of the designated assessment only; also requires completion of a program of study and a recommendation from a state-approved institution.

AUTHORITY: sections 168.011, 168.021, 168.405 and 168.409, RSMo 2000 and 161.092, 168.071, 168.081 and 168.400, RSMo Supp. 2002. Original rule filed April 26, 2000, effective Nov. 30, 2000. Amended: Filed March 27, 2001, effective Oct. 30, 2001. Amended: Filed March 1, 2002, effective Sept. 30, 2002. Amended: Filed Aug. 13, 2002.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Elementary and Secondary Education, ATTN: Dr. Charles Brown, Assistant Commissioner, Division of Teacher Quality and Urban Education, PO Box 480, Jefferson City, MO 65102-0480. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 9—DEPARTMENT OF MENTAL HEALTH
Division 10—Director, Department of Mental Health
Chapter 7—Core Rules for Psychiatric
and Substance Abuse Programs

PROPOSED AMENDMENT

9 CSR 10-7.110 Personnel. The department proposes to add new section (5).

PURPOSE: This amendment establishes requirements for practicum and intern students who wish to provide certain services funded by the department.

(5) Practicum/Intern Students. A practicum/intern student if used in a Department of Mental Health (DMH) program must be enrolled and participating in an accredited college/university in a field of study including but not limited to social work, psychology, sociology or nursing.

(A) The student and agency must have a written plan documenting the following:

1. Name of individual, educational institution, and degree program;

2. Brief description of the status of the individual with respect to degree completion, including: semester/hours remaining, projected completion date, and time period of the practicum or internship;

3. A description of the specific job status of the individual with respect to agency program and client population;

4. A specific plan for supervision of the student, including name and title of the direct supervisor. The plan must detail the frequency and duration of the supervision activities including the scope of case/record reviews, the location of the supervisor with respect to the service delivery locations, and emergency back-up supervision arrangements; and

5. A list of the specific Purchase of Service (POS) services the agency has approved for the student to deliver. Students may not deliver Medicaid-eligible services unless they meet the provider eligibility requirements through prior experience and education.

(B) The student must have a letter from their academic advisor attesting to their qualifications and eligibility for the proposed practicum.

(C) The student must be under the close supervision of the direct clinical supervising professional of the agency. The person providing the supervision must be qualified to provide the services they are supervising.

1. For providing counseling services a student must be in a master's program or above, and be approved for the practicum by the college/university.

2. To provide case management and community support work, and other support services, a student must be in the final year of a bachelor's program or above.

3. A student may be assigned a limited caseload based on background and prior experience.

(D) A student must be background screened, oriented and trained as consistent with the agency's policies for new employees.

(E) Service delivery by the student must be documented according to department standards and policy.

1. All documentation of billable services must be reviewed and countersigned by an individual who meets the division criteria for a qualified mental health professional or supervisor of counselors, a community support worker, or case manager, as appropriate.

2. Services shall be billed using appropriate existing service codes and reimbursed at the established contract rate for the anticipated degree, unless a distinct student rate has been established for the service.

(F) For Division of Alcohol and Drug Abuse funded contracts, the services are limited to individual counseling, group counseling, group education and community support work.

AUTHORITY: sections 630.050 and 630.055, RSMo 2000. Original rule filed Feb. 28, 2001, effective Oct. 30, 2001. Amended: Filed Aug. 28, 2002.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Mental Health, Attn: Julie Carel, Division of Comprehensive Psychiatric Services, PO Box 687, Jefferson City, MO 65102. To be considered comments must be in writing and must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 9—DEPARTMENT OF MENTAL HEALTH
Division 30—Certification Standards
Chapter 4—Mental Health Programs

PROPOSED RULE

9 CSR 30-4.195 Access Crisis Intervention Programs

PURPOSE: This rule sets forth standards and regulations for Access Crisis Intervention Programs.

(1) The Access Crisis Intervention (ACI) program is designed to be provided by administrative agents with certified outpatient programs.

(2) The terms defined in section 630.005, RSMo are used in this rule.

(3) Unless the context clearly requires otherwise, the following terms as used in this rule shall mean—

(A) Access Crisis Intervention (ACI)—crisis intervention/referral services provided by telephone or face-to-face at the location of the crisis or at another location in the community;

(B) Administrative agent—an agency and its approved designee(s) authorized by the Division of Comprehensive Psychiatric Services (CPS) as an entry and exit point into state mental health service delivery system for a geographic service area defined by the division;

(C) Alcohol and drug detoxification services—services providing detoxification which is the process of withdrawing a person from alcohol, other drugs or both in a safe, humane, and effective manner;

(D) Community outreach/education plan—a plan outlining how families, consumers, consumer advocates, state agencies, law enforcement and others in the community will become familiar with the local Access Crisis Intervention System;

(E) Community Psychiatric Rehabilitation Program—a specialized program that provides or arranges for, at a minimum, the following core services: intake and annual evaluations, crisis intervention and resolution, medication services, physician consultation services, medication administration, community support and psychosocial rehabilitation in a nonresidential setting for individuals with serious mental illness in conjunction with standards set forth in 9 CSR 30-4.031—9 CSR 30-4.047;

(F) Community support—as defined in 9 CSR 30-4.043(2)(F)–(G);

(G) Consumer—a person who receives mental health services or ACI services, regardless of source of payment. Parents and/or legal custodians/guardians of children and youth are primary consumers if they are actively engaged in the treatment planning and/or delivering services and supports for the child or youth. A secondary consumer is an individual who is concerned and involved in supporting and treating primary consumers. This category includes family members and significant others involved in the treatment and support processes; sponsors for persons who engage in substance abuse; children of parents who have mental illness or substance abuse issues; and persons who advocate for vulnerable populations;

(H) Consumer advocate—individuals who will assist consumers with treatment planning, care issues and the complaint/grievance and resolution process;

(I) Consumer satisfaction—a measure of the degree to which an individual, who is receiving or has received ACI services from the department, perceives the services to be successfully addressing, or to have successfully addressed their individual needs for professional services;

(J) Division—the Division of Comprehensive Psychiatric Services;

(K) Internal agency protocol—a specific method indicating how the agency plans to respond to guidelines set forth by the department;

(L) Mental health coordinator—as defined in 632.005(10), RSMo;

(M) Mental health professionals—as defined in 9 CSR 30-4.030 (2)(HH);

(N) Mobile crisis response—specialized staff available to assess and intervene face-to-face with consumers where the crisis is occurring or another secure location in the community;

(O) Risk assessment—the process of assessing dangerousness to self or others;

(P) Residential crisis services—a service used for persons who are at high risk for hospitalization or who are being diverted from hospitalization and can include specific crisis stabilization units, group homes, residential, apartments, motels/hotels, and foster home type settings;

(Q) Specialized program—programs operated by an agency that provide specific services to designated eligible consumers enrolled in that program;

(R) Telephone Hotline Services (24)-Hour—a published, centralized, twenty-four (24)-hour staffed toll-free telephone number to provide direct means of crisis assessment and triage for consumers in crisis, their families, and agencies needing assistance.

(4) Consumer Records.

(A) Consumers receiving only telephone hotline or mobile outreach through the ACI program do not require a treatment plan, however, for current clients of the department or those who are in the process of being admitted to a mental health program, there shall be evidence of coordination between the ACI staff and the treating staff.

(B) At a minimum, those programs funded for ACI must keep the following records for telephone hotline services when possible to obtain from caller:

1. Date and time of telephone call;
2. Current status of the caller;
3. Identity of caller, including but not limited to, parent, client, law enforcement, judge, hospital, emergency room, mental health professional;
4. Name, address, telephone number, and date of birth;
5. Presenting problem;
6. Disposition and follow-up.

(C) ACI programs must have a method for retaining hotline data in compliance with 9 CSR 10-7.030.

(D) When a call is received regarding another person, the identified consumer for the purpose of intervention must be the person calling, as well as, the person being called about. For data collection, the identified consumer is the person being called about.

(E) At a minimum, those agencies providing ACI services must keep the following records for mobile outreach services when the individual agrees to provide identifying information:

1. Date and time of referral;
2. Date, time and place of face-to-face contact;
3. Person accompanying mobile worker;
4. Person in attendance at face-to-face contact;
5. Name, address, telephone number, date of birth;
6. Presenting problem;
7. Disposition and follow-up.

(F) The agency must document when the consumer does not provide identifying information.

(G) Agencies providing ACI services must submit to the department, reports and documentation as prescribed by the department according to the department's standardized form.

1. The following form is included herein: MO 650-8679N (6-01).

(H) Agencies providing ACI services must meet the confidentiality requirements as defined in 9 CSR 10-7.030.

(5) Treatment.

(A) Each administrative agent must provide or arrange for the delivery of ACI services.

(B) Consumers receiving only telephone hotline or mobile outreach through the ACI program do not require a treatment plan, however, for current clients of the department or those who are in the process of being admitted to a mental health program, there should be evidence of coordination between the ACI staff and the treating staff.

(C) ACI programs must operate a twenty-four (24)-hour telephone hotline. Each program shall have a written description of the telephone hotline system including the following:

1. Name of the agency or contractor that operates the hotline;
2. Numbers and qualifications of hotline staff;
3. Written documentation that clinical supervision is provided including but not limited to: meeting minutes, supervision logs, or peer review processes;
4. Written description of how the telephone hotline is staffed;
5. Written documentation of case reviews and quality assurance activities relating to hotline services;
6. Written documentation of how telephone hotline services are provided to hard-of-hearing, deaf and persons who have a limited understanding of the English language;
7. Written description of ongoing hotline outreach activities;
8. Written description of a process for identifying and utilizing community resources in the delivery of telephone hotline services.

(D) Each administrative agent must have a designated agency staff person on call to the ACI system twenty-four (24) hours per day and seven (7) days per week.

(E) If the consumer, consumer advocate, or family member requests to speak with an individual from a specialized program, including but not limited to, the Community Psychiatric Rehabilitation Program (CPRC) community support worker and, the ACI clinical staff have determined that this action is clinically necessary, the ACI hotline staff shall contact the appropriate designated agency staff person.

(F) The ACI hotline staff shall remain in contact with the caller until a successful hand-off contact between caller and designated agency staff person has occurred.

(G) Once this contact has occurred, the designated agency staff person shall respond to the caller and/or secure the appropriate requested specialized program personnel involved.

(H) The designated agency staff person shall remain in contact with the caller until a successful hand-off or contact between specialized program personnel and caller has occurred.

(I) Each administrative agent must have a written internal agency protocol in place for how the designated agency staff person will be able to contact staff from specialized programs that require twenty-four (24) hour, seven (7) day per week crisis intervention as a component of their service menu.

(J) If ACI staff does not follow the procedure listed in (I) and (J) of this section, there must be a written protocol for contacting the ACI supervisor and the specialized program supervisor within twenty-four (24) hours to review the immediate action taken and then reviewed for a quality assurance process within forty-eight (48) hours.

(K) ACI programs must have a written description for resource and referral to the following services:

1. Acute hospitalization;
2. Medical services;
3. Alcohol and drug detoxification services;
4. Priority outpatient scheduling within twenty-four (24) hours or the next working day;
5. Children and youth services;
6. Psychiatric availability;
7. Civil involuntary detentions when initiated by the mental health coordinators.

(L) ACI programs must operate a twenty-four (24)-hour mobile response system. Each program shall have a written description of the mobile response system including the following:

1. Name of the agency or contractor that operates the hotline;
2. Written description of how mobile crisis response teams are staffed twenty-four (24) hours per day, seven (7) days per week;
3. Numbers and qualifications of staff;
4. Written documentation that clinical supervision is provided including but not limited to: meeting minutes, supervision logs, or peer review processes;
5. Written documentation of case reviews and quality assurance activities relating to mobile response services;

6. Written documentation of how mobile response services respond to hard-of-hearing, deaf and persons who have a limited understanding of the English language.

(M) ACI programs shall provide mobile response to known and unknown consumers twenty-four (24) hours per day and seven (7) days per week at the location of the crisis or to another secure community location.

(N) Mobile response shall not be provided exclusively in emergency rooms, jails or mental health facilities.

(O) When a call is referred to mobile response, a phone only response is appropriate if both staff and the person calling are satisfied that the crisis is resolved.

(P) Each agency providing ACI services must have safety mechanisms in place for mobile response. These may include but are not limited to:

1. Mobile phones;
2. Risk assessments both for phone and continually during contact;
3. Availability of multiple staff to respond for face-to-face contact;
4. Back-up available by pager;
5. Extensive training;
6. Written protocols for mobile response to be delivered in safe locations when necessary.

(Q) In crisis situations in which law enforcement need to be contacted by the ACI staff, the ACI staff must make the initial contact and remain involved until the crisis is resolved, either by phone or with the mobile response team.

(R) If the caller is not satisfied, the grievance procedure must be followed as defined in 9 CSR 10-7.020(7)(A)-(C).

(6) Quality Assurance.

(A) Each agency providing ACI services must develop a community outreach/education plan that includes details of how the following groups will become familiar with the ACI system:

1. Families;
2. Consumers;
3. Consumer advocates;
4. State agencies including the Division of Family Services, Division of Senior Services and Division of Youth Services;
5. Law enforcement agencies;
6. 911 personnel;
7. Schools;
8. Juvenile courts;
9. Emergency medical services personnel;
10. Residential care facilities;
11. Homeless shelters and/or providers;
12. Public housing;
13. General public.

(B) The community outreach/education plan must include the various action steps that will be taken in educating the community as to how to access the ACI system through written material and other means of communication.

(C) The community outreach/education plan must indicate how the components will be accomplished on an ongoing basis.

(D) Agencies providing ACI services must, at least annually, demonstrate community awareness.

(E) The telephone number for ACI must be published in a local telephone book.

(F) If the level of crisis services provided by an agency is significantly below the state average, or other established benchmarks, this circumstance must be addressed in the Quality Assurance Plan.

(G) Programs providing ACI services must conduct the Consumer Satisfaction ACI Interview Survey as prescribed by the department.

(7) Personnel and Staff Development.

(A) Staff providing telephone hotline services must have a bachelor's degree with three (3) years of behavioral health and crisis intervention experience or a master's degree with one (1) year of behavioral health and crisis intervention experience.

1. Staff providing telephone hotline services must be supervised by a qualified mental health professional as defined in 9 CSR 30-4.030.

2. Staff providing telephone hotline services must have immediate access to a qualified mental health professional.

(B) For mobile response, the mobile crisis team shall have at least one (1) qualified mental health professional to provide face-to-face crisis intervention for each mobile response.

(C) Each administrative agent shall designate a coordinator for ACI services who must be a qualified mental health professional as defined in 9 CSR 30-4.030.

(D) The agency shall have written documentation that clinical supervision is provided on a scheduled basis including but not limited to: meeting minutes, supervision logs, or peer review processes.

(E) Administrative agents shall have a designated staff person on call to the ACI system twenty-four (24) hours per day seven (7) days per week for specialized programs. This designated staff person shall have received training and have experience in responding to crisis situations with individuals and families.

(F) Each region or provider must have an ACI Training Plan. The training plan shall include consumers, families and consumer advocates in the development and implementation of the plan.

(G) Staff providing ACI services shall complete the designated ACI training required by the department, at least annually, that includes but is not limited to the following core competencies as defined by the department:

1. Crisis intervention strategies and techniques;
2. ACI and legal issues;
3. Safety;
4. ACI responsiveness to consumers;
5. Other competencies as required by the department.

(H) ACI staff shall have a working familiarity with the core competencies prior to providing crisis intervention services.

(I) New ACI staff shall be trained and document the demonstration of the core competencies within the first six (6) months of employment.

(J) The administrative agent shall describe how the core competencies will be incorporated into the ACI staff training program on an ongoing basis.

(K) Each agency shall provide a written plan of how it will measure the competencies of the ACI staff. The plan must include at least two (2) measurable outcomes including but not limited to:

1. Review of case documentation;
2. Review of assessment forms for appropriate interventions;
3. Question, answer and observation by supervisory staff and peers;
4. Consumer satisfaction and clinical outcomes.

(L) New ACI staff must receive clinical supervision and must shadow the supervisor or experienced crisis workers for a minimum of two (2) weeks prior to providing crisis services.

(M) 9 CSR 10-7.110 requires that all staff participate in at least thirty-six (36) clock hours of relevant training during a two (2)-year period. All staff working within the ACI program and services shall receive a minimum of twelve (12) clock hours per year of continuing education and relevant training.

(N) All training activities shall be documented in employee personnel files, to include the training topic, name of instructor, date of activity, duration, skills targeted/objective of skill, certification/continuing education units (if any) and location.

(8) Fiscal Management. The agency will provide financial information to the department or any of its divisions upon request, relating but not limited to, program administration and services provided through any programs, services or activity using funds provided by the department.



STATE OF MISSOURI
 DEPARTMENT OF MENTAL HEALTH
 DIVISION OF COMPREHENSIVE PSYCHIATRIC SERVICES
ACCESS CRISIS INTERVENTION (ACI) QUARTERLY REPORT

AGENCY	QUARTER REPORTED (CHECK ONE) <input type="checkbox"/> 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4
	DATE

PART 1: CRISIS HOTLINE

	HOTLINE	ADM. AGENT
Total Crisis Calls (Total number of calls received (all that apply) for whom a case is opened, a contact sheet completed or mental health services delivered.)		
Number of Persons Calling (Total number of identified persons (list only once) for whom a case is opened, a contact sheet completed, or mental health services delivered.)		

DMH (Currently Active) Clients

AGE	DEMOGRAPHIC DATA FOR CRISIS CALLERS			ADM. AGENT (# PERSONS)		
	MALE	FEMALE	UNKNOWN	MALE	FEMALE	UNKNOWN
0 - 12						
13 - 17						
18 - 40						
41 - 64						
65+						
Unknown						
Total						
	Total Hotline (Should equal Total Crisis Calls for Hotline)			Total Adm. Agent (Should equal Total Crisis Calls for Adm. Agt.)		

REFERRER	NOTICE	NOTICE
Consumer/Self		
Family Member		
Mental Health Worker		
Law Enforcement		
Jail/Corrections/Detention		
Div. of Youth Services/Juvenile Court		
Div. of Family Services		
Div. of Aging		
Medical Facility or Professional		
Mental Health Coordinator		
Alcohol and Drug Staff		
School		

WHO CALLED (CONTINUED)	HOTLINE	ADM. AGENT
Homeless Shelter/Services		
Significant Other		
Friend		
Neighbor		
Other		
Total (Total should equal Total Crisis Calls)		
OCCURRENCE OF CONTACT	HOTLINE	ADM. AGENT
Currently suicidal		
Harm or threats of harm to self (other than suicidal)		
Harm or threats of harm to others		
Inability to meet basic needs		
Acute Psychiatric crisis		
Domestic violence		
Childhood/adolescent problems		
Information/Referral		
Substance abuse		
Housing		
Non-acute mental health needs		
Access to and/or problems with psychiatric medications		
Other		
Total (Total is calculated by summing data from individual contact sheets that document all problems noted by caller. Total should be greater than Total Calls Received.)		
OUTCOME OF CONTACT	HOTLINE	ADM. AGENT
No further contact planned		
Referred to Mobile Crisis		
Scheduled same/next day appointment for CPS Services		
Scheduled same/next day appointment for ADA Services		
Referred to other community agency		
Referred/Admitted to psychiatric inpatient hospital/unit		
Referred to 911/law enforcement/juvenile officer		
Referred/Admitted to a residential crisis program		

	HOTLINE	ADM. AGENT				
Referred/Admitted to 23 hour observation bed						
Referred to Mental Health Coordinator						
Referred to medical facility for medical reasons						
Referred to emergency substance abuse treatment (non-medical detox)						
Non-emergency: Referral to DMH CPS services						
Non-emergency: Referral to DMH ADA services						
Non-emergency: Referral to DMH MR-DD services						
Total (Total is calculated by summing data from individual contact sheets that document all outcomes resulting from a crisis call. Total will be greater than Total Calls Received.)						
PART II: MOBILE CRISIS RESPONSE						
<input type="checkbox"/> This agency's mobile team responds to CPRC clients at all times. <input type="checkbox"/> This agency's mobile team responds to CPRC clients only after hours. <input type="checkbox"/> This agency's mobile team does not respond to CPRC clients at any time.						
Disposition of Referrals						
Phone contact only						
Face-to-face contact						
Total Referrals (Total number of referrals for Mobile Crisis Assistance.)						
Location of Referrals						
Directed to agency's office or clinic						
Agency Walk-ins						
In a client or caller's home						
Directed to Emergency Room/Medical Facility						
Emergency Room Walk-ins						
In a jail or juvenile detention facility						
In a School						
In the office of a social service agency						
Other						
Total (Total should equal face-to-face contacts under Disposition of Referrals)						
Age						
	Hotline (# persons)			Adm. Agent (# persons)		
	Male	Female	Unknown	Male	Female	Unknown
0-12						
13-17						
18-40						
41-64						
65+						
Unknown						
Total (Total number of referrals for Mobile Crisis Assistance)						
RACE			HOTLINE (# PERSONS)	ADM. AGENT (# PERSONS)		
African American						
Caucasian						
Hispanic						
Asian						
Native American						

DEMOGRAPHIC INFORMATION ON MOBILE CRISIS REFERRALS (CONTINUED)		
RACE	HOTLINE (# PERSONS)	ADM. AGENT (# PERSONS)
Pacific Islander		
Unknown/Other		
Total (Total number of referrals for Mobile Crisis Assistance.)		
CRISIS OUTCOMES FOR MOBILE CRISIS REFERRALS		HOTLINE ADM. AGENT
No further contact planned		
Scheduled same/next day appointment for CPS services		
Scheduled same/next day appointment for ADA services		
Referred to other community agency		
Referred/Admitted to psychiatric inpatient hospital/unit		
Referred to 911/law enforcement/juvenile officer		
Referred/Admitted to a residential crisis program		
Referred/Admitted to 23 hour observation bed		
Referred to Mental Health Coordinator		
Referred to medical facility for medical reasons		
Referred to emergency substance abuse treatment (non-medical detox)		
Non-emergency: Referral to DMH CPS services		
Non-emergency: Referral to DMH ADA services		
Non-emergency: Referral to DMH MR-DD services		
Total (Total is calculated by summing data from individual contact sheets that document all outcomes resulting from a mobile crisis referral. Total may be greater than total Mobile Crisis Referrals Received.)		
COMMENTS:		
<hr/> <hr/> <hr/> <hr/>		
Send Completed Report To:	Omar Tejan Missouri Department of Mental Health Division of Comprehensive Psychiatric Services 1706 E. Elm Street, PO Box 687 Jefferson City, MO 65102 FAX: 573/751-7815 Email Address: mztejao@mail.dmh.state.mo.us	

DIVISION OF COMPREHENSIVE PSYCHIATRIC SERVICES
ACCESS CRISIS INTERVENTION (ACI)
DATA REPORT INSTRUCTIONS

PART I: CRISIS HOTLINE

CRISIS CALL SUMMARY		INSTRUCTIONS
Total Crisis Calls		The number of calls received, in which a case is opened, a contact sheet is completed, or a mental health service is delivered. This includes informational calls about mental health services completed by hotline staff. Administrative Agents should report separately calls received directly to the agency, that are referred to ACI staff, or crisis calls needing immediate intervention, does not include contracted hotline calls. Do not include daytime informational calls, regular scheduling, or calls taken by CPR, TCM or Families First staff for their current clients.
Number of persons calling		This should reflect the number of individuals served this quarter. Each person would be counted 1 time, even if receiving multiple services.
DMH (currently active) clients; subset of total crisis calls (unduplicated)		How many of the individuals served were DMH clients. This is not necessarily the caller, but the person having the crisis.
DEMOGRAPHIC DATA		INSTRUCTIONS
Age	Please indicate the number of callers for both hotline and administrative agent calls. These numbers should be indicated for both males and females in the appropriate age range.	
Total	The total for demographics should equal the total number of crisis calls.	
CALLER DEFINITION		INSTRUCTIONS
Consumer/Self	Any person who is calling about themselves or a crisis situation that involves them.	
Family Member	Any family member, i.e. parent, spouse, sibling, etc., that is calling about another family member.	
Mental Health Worker	Calls from individuals in the mental health field who use the hotline for professional reasons regarding a current or potential recipient of services, including calls from RCFs.	
Law Enforcement	Any law enforcement entity such as highway patrol, sheriff, city police.	
Jail/Corrections/Detention	County jail, state correctional institution (including halfway house), municipal jail.	
Div. of Youth Services/Juvenile Court	Juvenile judge, officer, or detention worker; juvenile court operated group home, and calls from Division of Youth Services.	
Division of Family Services	Any Division of Family Services staff person	
Division of Aging	Any Division of Aging staff person	
Medical Facility or Professional	A hospital, emergency room, or outpatient clinic that provides general medical care. Include any medical professional (physician, nurse, etc.), who calls regarding a current or potential recipient of services.	
Mental Health Coordinator	Referred to Mental Health Coordinator for investigation for involuntary detention.	
Alcohol and Drug Staff	Calls from individuals working in a drug and alcohol program regarding a current or potential recipient of services.	
School	Calls from elementary or secondary school personnel regarding a current or potential recipient of services.	
Homeless Shelter/Services	Calls from homeless shelter or homeless support worker about a current or potential recipient of services.	
Significant Other	A person with whom one shares a long-term relationship. An influential person in one's life.	
Friend	A person who one knows, likes and trusts.	
Neighbor	One who lives next to or near another.	
Other	Any caller that does not fit into the above definitions.	
ASSESSMENT INDICATING RISK OF SUICIDE, HARM TO SELF OR HARM TO OTHERS		INSTRUCTIONS
Currently suicidal	Assessment indicates current risk of suicide, based on self-report, report by others, significant history or other risk factors.	
Harm or threats of harm to self (other than suicidal)	Individuals at risk or threatening harm to self other than suicide.	
Harm or threats of harm to others	Assessment indicates risk of harm to others, person is threatening harm to others, or caller indicates risk of harm to others.	
Inability to meet basic needs	Assessment indicates the person's inability to provide for minimal shelter, food, clothing, safety, etc.	

PRESENTING PROBLEMS LIST PRIMARY PROBLEMS (CONTINUED) AND INSTRUCTIONS		INSTRUCTIONS
Acute psychiatric crisis		Assessment indicates the individual is experiencing active symptoms of a mental illness, i.e. psychosis, anxiety, etc.
Domestic violence		Threats or situations of harm inflicted upon one member of a household by another member. This could be child abuse, spousal abuse, adult or elderly abuse, sexual abuse, etc.
Childhood/adolescent problems		The call is about a person under the age of 18 who has difficulties such as running away, school problems, delinquency, etc.
Information/referral		The caller wants information on mental health issues or other assistance such as where to obtain services.
Substance abuse		Problem involves or is significantly impacted by alcohol or other drug abuse, addiction, or intoxication.
Housing		Problems involve housing crisis, i.e. eviction, complaints from landlord or neighbors, homelessness.
Non-acute mental health needs		Individuals that call for support, repeated callers that use the crisis line to "check-in" with someone, etc.
Access to and/or problems with psychiatric medications		Call involves problems with access to psychiatric medication, i.e. caller is out of meds and can't get in to see psychiatrist, off meds, side effects from medications, etc.
Other		Anything that does not fit in one of the above categories.
OUTCOME OF THE CRISIS CALL OR REFERRAL		INSTRUCTIONS
No further contact planned		Problem was resolved by phone contact without need for further assistance.
Referred to Mobile Crisis		Referred directly to mobile crisis.
Schedule same/next day appointment for CPS services		Hotline staff schedule same/next day appointment at Administrative Agent or contact mobile crisis staff to schedule same/next day appointment for CPS services.
Schedule same/next day appointment for Alcohol and Drug Abuse services		Hotline staff schedule same/next day appointment at an alcohol and drug abuse agency or contact mobile crisis staff to schedule same/next day appointment for ADA services.
Referred to other community agency		This refers to DFS, DOA, Salvation Army, homeless shelters, or other service agencies.
Referred/Admitted to psychiatric inpatient hospital/unit		Direct referrals for persons that need screening for psychiatric hospitalization.
Referred to 911/law enforcement/juvenile officer		To be used when an imminent harm situation arises that requires immediate emergency response.
Referred/Admitted to residential crisis program		Refers to residential setting used for hospital diversion or respite care, including those in RCF's, free standing facilities, in-home care, etc.
Referred/Admitted to 23 hour observation bed		Refers to beds usually at an inpatient setting, where individual can receive short term oversight and assessment without actually being admitted to the hospital.
Referred to Mental Health Coordinator		Referral to Mental Health Coordinator for an investigation for involuntary detention.
Referred to medical facility for medical reasons		Direct referral of persons to a hospital because of their physical health needs (e.g. gunshot wound).
Referred to emergency substance abuse treatment (non-medical detox)		Direct referral of persons for "immediate" drug and alcohol treatment services.
Non-emergency: Referral to DMH CPS services		Referral to DMH CPS Services; no emergency requiring more immediate psychiatric services exists.
Non-emergency: Referral to DMH ADA services		Referral to DMH ADA Services; no emergency requiring more immediate alcohol & drug abuse services exists.
Non-emergency: Referral to DMH MR-DD services		Referral to DMH MR-DD Services; no emergency requiring more immediate MR-DD services exists.
PART II: MOBILE CRISIS RESPONSE		
Phone contact only		Total number of referrals to mobile response that were resolved with phone contact only, including those referred to next day appointments and other supports.
Face-to-Face Contact		Total number of referrals to mobile crisis that received a face-to-face contact.
Total Referrals		This figure should equal the number of phone and face-to-face contacts combined; it should also equal the number of referrals to mobile crisis assistance.

LOCATION OF FACE-TO-FACE		INSTRUCTIONS
Directed to agency's office or clinic	Person has been requested to travel to agency's office or clinic. Note that if an agency has staff located in an ER (this is considered their office) and the individual is requested to come to the ER, then this category should be marked.	
Agency walk-in	Presenting at agency, with no prior notice. Note that if an agency has staff located in an ER (this is considered their office) and the individual presents at this location with no prior notice, then this category should be marked.	
In client or caller's home	A place where the client or caller lives; their residence	
Directed to emergency room or medical facility	Person has been requested to travel to emergency room or medical facility	
Emergency room walk-in	Presenting in emergency room, with no prior notice.	
In a jail or juvenile detention facility	A place for the confinement of individuals in lawful detention.	
In a school	Include contacts at elementary and secondary schools.	
In the office of a social service agency	Include DFS, local social service agency, Salvation Army, etc.	
Other	Location other than those listed above.	
Total	Totals should equal face-to-face contacts under disposition of referrals.	
DEMOGRAPHIC INFORMATION ON MOBILE CRISIS REFERRALS		
Age	Please indicate the number of referrals for both hotline and administrative agent calls. These numbers should be indicated for both males and females in the appropriate age range.	
Total	The total for demographics should equal the total number of mobile crisis referrals.	
DEMOGRAPHIC INFORMATION ON MOBILE CRISIS REFERRALS		
Race	Please indicate the number of referrals for both hotline and administrative agent calls for the appropriate race category.	
Total	The total for demographics should equal the total number of mobile crisis referrals.	
OUTCOME OF MOBILE CRISIS REFERRALS (IN THE COMMUNITY)		
No further contact planned	Problem was resolved by phone contact without need for further assistance.	
Schedule same/next day appointment for CPS services	Schedule same/next day appointment for CPS services.	
Schedule same/next day appointment for ADA services	Schedule same/next day appointment for alcohol and drug abuse services.	
Referred to other community agencies	This refers to DFS, DOA, Salvation Army, homeless shelters, or other service agencies.	
Referred/Admitted to psychiatric inpatient hospital/unit	Direct referrals for person that needs screening for psychiatric inpatient hospital/unit.	
Referred to 911/law enforcement/juvenile officer	To be used when an imminent harm situation arises that requires immediate emergency response.	
Referred/Admitted to residential crisis program	Refers to residential setting used for hospital diversion or respite care, including those in RCF's, free standing facilities, in-home care, etc.	
Referred/Admitted to 23 hour observation bed	Refers to beds usually at an inpatient setting, where individual can receive short-term oversight and assessment without actually being admitted to the hospital.	
Referred to Mental Health Coordinator	Referral to Mental Health Coordinator for an investigation for involuntary detention.	
Referred to medical facility for medical reasons	Direct referrals of persons to a hospital because of their physical health needs (e.g. gunshot wound).	
Referred to emergency substance abuse treatment (non-medical detox)	Direct referral of persons for "immediate" drug and alcohol treatment services.	
Non-emergency; referral to DMH CPS services	Referral to DMH CPS services; no emergency requiring more immediate psychiatric services exists.	
Non-emergency; referral to DMH ADA services	Referral to DMH ADA services; no emergency requiring more immediate alcohol & drug abuse services exists.	
Non-emergency; referral to DMH MR-DD services	Referral to DMH MR-DD services; no emergency requiring more immediate MR-DD services exists.	

Send Completed Report To: Omar Tejan, Missouri Department of Mental Health, Division of Comprehensive Psychiatric Services, 1706 E. Elm Street, P.O. Box 687, Jefferson City, MO 65102. Fax: 573/751-7815 Email: mztejao@mail.dmh.state.mo.us

AUTHORITY: sections 630.050 and 630.655, RSMo 2000. Original ruled filed Aug. 28, 2002.

PUBLIC COST: This proposed rule will cost the Department of Mental Health \$6,584,881 per year for a total of \$131,697,620 over the twenty (20)-year anticipated life of the rule. The Access Crisis Intervention program is currently funded through federal earnings dollars, which will be available for another two (2) years. At the time these funds are no longer available, the department will be requesting a general revenue pick-up to continue funding the program.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Mental Health, Attn: Julie Carel, Division of Comprehensive Psychiatric Services, PO Box 687, Jefferson City, MO 65102. To be considered comments must be in writing and must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Fiscal Note
Public Entity Cost**I. RULE NUMBER.** (All of the information in Part I comes from the header of the rule.)

Title: 9 - Department of Mental Health

Division: 30 Certificate Standards

Chapter: 4 – Mental Health Programs

Type of Rulemaking: New

Rule Number and Name: 9 CSR 30-4.195 Access Crisis Intervention Programs

II. SUMMARY OF FISCAL IMPACT (Present a summary of fiscal impact. Use a separate row for each public agency or political subdivision affected.)

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Department of Mental Health	\$131,697,620

III. WORKSHEET (Present more detailed fiscal information.)

20 years at \$6,584,881 per year.

IV. ASSUMPTIONS AND METHODOLOGY. (Present assumptions, references and methods of acquiring information that underlie the conclusions in the fiscal note. Examples of information that might be included here are the sources of information presented in the fiscal note, why those sources were chosen and eventualities that might cause the fiscal impact to be different from your estimate.)

This places current practices and DMH expectations into a formal Rule. The DMH requires any provider holding Administrative Agent status to provide Access Crisis services. This program is an integral part of the Division of Psychiatric Services and it is assumed in this fiscal note that funding will continue for the program.

Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 5—Conduct of Gaming

PROPOSED AMENDMENT

11 CSR 45-5.200 Progressive Slot Machines. The commission is adding subsection (1)(E) and amending subsection (12)(A).

PURPOSE: The commission proposes to amend this rule by adding an additional investment vehicle to fund future payments of progressive slot machine jackpots.

(1) As used in this rule—

(C) Progressive jackpot means a slot machine payoff that increases and over time solely as a function of coins played on a machine or group of machines; *[and]*

(D) Wide-area progressive means a system of slot machines that are linked across telecommunication lines as part of a network connecting separate excursion gambling boats licensed by the commission with an aggregate prize(s).*J.*; and

(E) “United States Government Agency Securities” means negotiable, senior, non-callable, debt obligations issued and guaranteed by a United States agency that on the date of funding, possesses an issuer credit rating equivalent to the highest investment grade rating given by Standard & Poor’s or Moody’s Investors Service.

(12) Unless the commission has approved the payment of prizes by installments, a licensee who has a progressive slot machine must maintain minimum cash reserves in accordance with 11 CSR 45-8.150. The commission must approve all such cash reserves. Notwithstanding the provisions of 11 CSR 45-5.240 Periodic Payments, to the contrary, the commission shall require that the licensee authorized to provide a wide-area progressive system—

(A) Maintain in a restricted account a reserve consisting of cash, United States Government Treasury Securities, **United States Government Agency Securities** and/or Missouri state debt instruments of not less than the sum of the following amounts:

1. The present value of the aggregate remaining balances owed on all jackpots previously won by patrons through the wide-area progressive system; and

2. An amount sufficient to fully fund the present value of all amounts currently reflected on the progressive meters of the wide-area progressive systems; and

AUTHORITY: sections 313.004, 313.800 and 313.805, RSMo [1994] 2000. Emergency rule filed Sept. 1, 1993, effective Sept. 20, 1993, expired Jan. 17, 1994. Emergency rule filed Jan. 5, 1994, effective Jan. 18, 1994, expired Jan. 30, 1994. Original rule filed Sept. 1, 1993, effective Jan. 31, 1994. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Aug. 30, 2002.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Gaming Commission, PO Box 1847, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. A public hearing is scheduled for 10:00 a.m. on November 13, 2002, in the Missouri Gaming Commission’s Hearing Room, 3417 Knipp Drive, Jefferson City, Missouri.

Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 23—Motor Vehicle

PROPOSED RULE

12 CSR 10-23.454 Electric Personal Assistive Mobility Device (EPAMD)

PURPOSE: This rule gives the definition, titling and registration requirements of an Electric Personal Assistive Mobility Device (EPAMD) pursuant to section 307.205.1, RSMo.

(1) An Electric Personal Assistive Mobility Device (EPAMD) is a nontandem two-wheeled device with an electric propulsion system of one (1) horsepower with maximum speed of less than twenty (20) miles per hour. The device meets the definition of a motorized bicycle as defined in section 301.010(36), RSMo and is therefore exempt from titling and registration pursuant to Chapter 301, RSMo.

AUTHORITY: sections 301.010, 301.190, RSMo 2000 and 307.205, RSMo Supp. 2002. Original rule filed Aug. 23, 2002.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 24—Drivers License Bureau Rules

PROPOSED AMENDMENT

12 CSR 10-24.020 Trial De Novo Procedures and Parties. The director proposes to amend sections (1), (2) and (3).

PURPOSE: This proposed amendment is deleting parts of the sections that repeat statutes and corrects an error that was in the department’s mailing address.

(1) *[Any person aggrieved by a decision of the department rendered at an administrative hearing pursuant to section 302.530, RSMo shall file an appeal for judicial review within fifteen (15) days after being notified by certified letter of the department’s decision or the decision shall be final.] Upon the filing of a petition for trial de novo, process shall be served personally or by certified mail upon the Director of Revenue, Harry S Truman State Office Building, Room 670, 301 West High Street, Jefferson City, MO 65105.*

(2) *[The appeal from the decision of the department shall be in the form of a petition for trial de novo. The petition shall be filed in the circuit court of the county where the arrest occurred. The trial de novo shall be conducted pursuant to the Missouri rules of civil procedure and not as an appeal of an administrative decision pursuant to Chapter 536, RSMo. Process shall be served personally upon the director of revenue, Harry S Truman State Office Building, Room 660, 301*

West High Street, Jefferson City, MO 65105.] The case shall be decided by the judge sitting without a jury.

(3) If the person files a timely petition for trial de novo under section 302.535.1., RSMo and if the person's driving record shows no prior alcohol-related enforcement contact during the immediately preceding five (5) years, the petitioner shall be issued a restricted driving privilege for the limited purpose of driving in connection with the petitioner's business, occupation, employment or formal program of secondary, postsecondary or higher education. The restricted driving privilege shall not be issued until the petitioner has completed the first thirty (30) days of a suspension.] A restricted driving privilege issued pursuant to section 302.535.2, RSMo shall not be issued until the petitioner for the trial de novo has completed the first thirty (30) days of the administrative suspension.

AUTHORITY: sections: 302.525, [RSMo Supp. 1991,] 302.530, RSMo 2000 and 302.535, RSMo [1986] Supp. 2001. Original rule filed Feb. 3, 1984, effective May 11, 1984. Amended: Filed Aug. 14, 1984, effective Dec. 13, 1984. Amended: Filed Oct. 1, 1985, effective Dec. 26, 1985. Amended: Filed Nov. 12, 1991, effective March 9, 1992. Amended: Filed July 2, 1992, effective Feb. 26, 1993. Amended: Filed Aug. 23, 2002.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 12—DEPARTMENT OF REVENUE **Division 10—Director of Revenue** **Chapter 26—Dealer Licensure**

PROPOSED AMENDMENT

12 CSR 10-26.010 Bona Fide Established Place of Business. The director proposes to amend subsection (1)(E).

PURPOSE: This amendment establishes that the dealer may use the name by which they are known by the public (fictitious) on signage advertising their business, as long as the fictitious name is registered with the secretary of state.

(1) In order to constitute a bona fide established place of business, hereinafter referred to as a "business location," for boat dealers, boat manufacturers, motor vehicle dealers, motor vehicle manufacturers, wholesale motor vehicle dealers, public motor vehicle auctions and wholesale motor vehicle auctions—

(E) [The] A licensee must display an exterior sign, if applicable.

1. A licensee except a wholesale motor vehicle dealer must display an exterior sign that shall be of a permanent nature, erected on the exterior of the structure or on the display area, constructed or painted and maintained to withstand reasonable weather conditions and the sign must be readable. The sign must[—]:

A. [Identify the name of the licensee and class of the business conducted] Contain the name of the licensee. The name does not need to be identical to the name appearing on the licensee's license, so long as it is registered as a fictitious name

with the secretary of state, is approved in writing by the line—make manufacturer, if applicable, and a copy of the fictitious name registration is provided to the department;

- B. Have letters at least six inches (6") in height;
- C. Be clearly visible to the public; and
- D. Comply with local sign ordinances, if any.

2. A temporary sign may suffice during the period of time required to obtain a permanent sign provided the order for construction, purchase or painting has in fact been placed. A copy of the sign order must be submitted with the application along with a picture of the temporary sign.

3. A public motor vehicle auction licensee shall display, in a conspicuous manner, two (2) additional signs, each of which shall bear the following warning in letters at least six inches (6") high: "Attention Buyers: Vehicles sold at this auction may not have had a safety inspection." The dimensions of each sign shall be at least two feet by two feet (2' × 2');

AUTHORITY: sections 301.553, RSMo 2000 and 301.560, RSMo Supp. [1998] 2002. Original rule filed Nov. 1, 1999, effective May 30, 2000. Amended: Filed Aug. 23, 2002.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 12—DEPARTMENT OF REVENUE **Division 10—Director of Revenue** **Chapter 26—Dealer Licensure**

PROPOSED AMENDMENT

12 CSR 10-26.020 License Requirements for Auctions, Dealers and Manufacturers. The director proposes to add a new section (7) and renumber existing section.

PURPOSE: This amendment expands the need for out-of-state owners to obtain a current criminal record check pursuant to sections 301.550 to 301.562, RSMo.

(7) If any of the owners, partners, or principal officers (if a corporation) are residents of a state other than Missouri or another country, they must obtain a current criminal record check from their state highway patrol or corresponding law enforcement agency and submit that record check with new and renewal applications.

[(7)] (8) The applicant must submit appropriate fees as prescribed in 12 CSR 10-26.040.

AUTHORITY: sections 301.553, 301.559 and 301.560, RSMo [Supp. 1998] 2000. Original rule filed Nov. 1, 1999, effective May 30, 2000. Amended: Filed Aug. 23, 2002.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 26—Dealer Licensure

PROPOSED AMENDMENT

12 CSR 10-26.090 Regulation of Off-Premises Shows and Tent Sales. The director proposes to amend subsections (1)(D), (1)(F) and add a section (5).

PURPOSE: This amendment creates a new class of dealer as provided in House Bill 2008 passed in the 91st General Assembly, section 301.550.1.(II), RSMo.

(1) For purposes of this rule, dealers shall be divided into classes, as provided in section 301.550.3, RSMo, as follows:

(D) [Motorcycle dealer—A dealer of new or used motor vehicles operated on two (2) wheels, including motorcycles while operated with any conveyance, temporary or otherwise, requiring the use of a third wheel, motortricycles or all terrain vehicles] Powersport dealer—A dealer who sells, either pursuant to a franchise agreement or otherwise, primarily motor vehicles including but not limited to motorcycles, all-terrain vehicles and personal watercraft as those terms are defined in Chapters 301 and 306, RSMo;

(F) Used motor vehicle dealer—A dealer of used motor vehicles, provided that the majority of units sold are not motorcycles, motortricycles, personal watercraft or recreational motor vehicles. The term “used motor vehicle dealer” as used in section 301.550.3, RSMo is not synonymous with the term as used in section 301.550.1, RSMo. As used in this rule, the term is a narrower term that excludes dealers of historic motor vehicles, classic motor vehicles and wholesale motor vehicles; and

(5) Trailers and vessels, including personal watercraft, are excluded from the provisions of this rule.

AUTHORITY: sections 301.553 and 301.566, RSMo [Supp. 1998] 2000 and 301.550, RSMo Supp. 2002. Original rule filed Nov. 1, 1999, effective May 30, 2000. Amended: Filed Aug. 23, 2002.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 12—DEPARTMENT OF REVENUE
Division 40—State Lottery
Chapter 50—Tickets and Prizes

PROPOSED AMENDMENT

12 CSR 40-50.010 Tickets and Prizes. The Lottery is amending the Purpose and the text of the section.

PURPOSE: This amendment is to clarify the procedures of lost or stolen instant game ticket issues.

PURPOSE: This rule provides that licensees own instant game tickets after they are purchased and delivered to the licensee and the licensee shall bear the burden of any loss. The executive director may establish policies after consideration of circumstances to relieve the licensee of some or all of the burden of loss.

[All tickets for the instant games shall become the property of the retail licensee upon purchase from the lottery commission.] The licensee shall be responsible for all tickets [after their purchase and] upon delivery to the retailer and shall bear the burden of any loss, including theft, damage or loss. The executive director of the lottery may establish policies which, after consideration of the circumstances of the licensee's loss, relieve the licensee of some or all of the burden of loss. The policies established by the executive director shall be made with the overall functionality of the lottery and the purpose of maximizing the funds available for appropriation to the public institutions of elementary, secondary and higher education as set forth in the Missouri Constitution, Article III, Section 39(b).

AUTHORITY: section 313.220, RSMo [1986] 2000. Original rule filed Sept. 4, 1985, effective Sept. 14, 1985. Amended: Filed Aug. 28, 2002.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Lottery, Terry Skinner, Director of Budget and Planning, PO Box 1603, Jefferson City, MO 65102-1603. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 12—DEPARTMENT OF REVENUE
Division 40—State Lottery
Chapter 80—General Rules—Instant Game

PROPOSED AMENDMENT

12 CSR 40-80.080 Claim Period. The commission proposes to amend the Purpose and section (1) of this rule.

PURPOSE: The purpose of this amendment is to redefine the claim period for Lottery games.

PURPOSE: The purpose of this rule is to set the period in which [instant] prizes may be claimed.

(1) [All winning tickets for any instant game must be claimed within one (1) year of the announced end of that game. Any

prize not claimed within the period of one (1) year and in the manner specified on the back of the ticket and 12 CSR 40-60.030 shall be forfeited.] All winning tickets for any instant or pull-tab game must be claimed within one hundred eighty (180) days of the announced end of the game. All winning tickets for any on-line game must be claimed within one hundred eighty (180) days of the draw date for that game.

AUTHORITY: section 313.220, RSMo [1986] 2000. Original rule filed Jan. 10, 1986, effective Jan. 20, 1986. Amended: Filed March 17, 1987, effective July 3, 1987. Amended: Filed Aug. 28, 2002.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Lottery, Terry Skinner, Director of Budget and Planning, PO Box 1603, Jefferson City, MO 65102-1603. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 15—ELECTED OFFICIALS **Division 30—Secretary of State**

Chapter 51—Broker-Dealers, Agents, Investment Advisers, and Investment Adviser Representatives

PROPOSED AMENDMENT

15 CSR 30-51.160 Effectiveness and Post-Effective Requirements. The commissioner of securities is proposing to amend section (1).

PURPOSE: This amendment corrects a typographical error.

(1) Pending Applications for Registration.

(A) Effective Date of Registration. If no denial order is in effect, and no proceeding under section 409.204, RSMo is pending, registration shall become effective no later than noon of the thirtieth day after the application is filed. The running of this thirty (30)-day period is suspended during the time a denial order is in effect or a proceeding under section 409.204, RSMo is pending. The running of the thirty (30)-day period shall resume when the denial order is vacated or the proceeding under section [409.402] 409.204, RSMo is no longer pending.

AUTHORITY: sections 409.201(b) and (d), 409.202 and 409.413(a), RSMo 2000 and 409.204, RSMo Supp. 2002. Original rule filed June 25, 1968, effective Aug. 1, 1968. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Aug. 30, 2002.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Secretary of State's Office, Doug Ommen, Commissioner of Securities, 600 West Main Street, Jefferson City, MO 65101. To be

considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 15—ELECTED OFFICIALS **Division 30—Secretary of State** **Chapter 52—Registration of Securities**

PROPOSED RESCISSION

15 CSR 30-52.010 General Provisions. This rule prescribed the general provisions under the Act regarding registrations along with the forms and content of applications for registration and procedures for filing applications.

PURPOSE: The commissioner of securities is proposing to rescind this rule and adopt a new rule that more clearly prescribes the general policies and meaning of terms under the Act for registrations. The commissioner of securities is also proposing to adopt a new rule at Missouri regulation 15 CSR 30-52.015 that more clearly prescribes the forms and other documents required with a registration statement of securities, as well as the notifications that need to be provided to the Securities Division.

AUTHORITY: sections 409.302(b), 409.303(b), 409.304(b) and 409.413(a), RSMo 1994. Original rule filed June 25, 1968, effective Aug. 1, 1968. For intervening history, please consult the *Code of State Regulations*. Rescinded: Filed Aug. 30, 2002.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Secretary of State's Office, Doug Ommen, Commissioner of Securities, 600 West Main Street, Jefferson City, MO 65101. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 15—ELECTED OFFICIALS **Division 30—Secretary of State** **Chapter 52—Registration of Securities**

PROPOSED RULE

15 CSR 30-52.010 General Provisions

PURPOSE: This rule prescribes general policies, and the meaning of terms under the Act and under Chapter 52 of the regulations.

(1) Securities may be registered by coordination, qualification or notification.

(2) The reference to a registration statement being on file for fifteen (15) days with the commissioner under section 409.303(c), RSMo shall mean fifteen (15) business days. The term "business days" would exclude weekends and holidays.

(3) For purposes of these rules contained in Chapter 52, an issuer in the promotional or development stage shall have the same meaning as the term "promotional or development stage company" that is defined in the North American Securities Administrators

Association, Inc. (NASAA) Statement of Policy Regarding Corporate Securities Definitions.

AUTHORITY: sections 409.302, 409.303, 409.304 and 409.413(a), RSMo 2000. Original rule filed June 25, 1968, effective Aug. 1, 1968. For intervening history, please consult the **Code of State Regulations**. Rescinded and readopted: Filed Aug. 30, 2002.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Secretary of State's Office, Doug Ommen, Commissioner of Securities, 600 West Main Street, Jefferson City, MO 65101. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 52—Registration of Securities

PROPOSED RULE

15 CSR 30-52.015 Applications for Registration

PURPOSE: This rule prescribes the forms and other documents required with a registration statement of securities, as well as the notifications that need to be provided to the Securities Division.

(1) Registration by Coordination and Qualification. A registration statement to register securities by coordination or qualification shall contain the following:

- (A) The form U-1 and accompanying documents;
- (B) Two (2) copies of the prospectus, including financial statements;
- (C) All exhibits filed with the Securities and Exchange Commission in connection with the registration statement;
- (D) The filing fee and registration fee specified in 15 CSR 30-50.030; and
- (E) Any additional information or documents requested by the Securities Division.

(2) Registration by Notification. A registration statement to register securities by notification shall contain the following:

- (A) The form SR-1 and accompanying documents;
- (B) Two (2) copies of the prospectus, including financial statements;
- (C) All exhibits filed with the Securities and Exchange Commission in connection with the registration statement, if applicable;
- (D) The filing fee and registration fee specified in 15 CSR 30-50.030; and
- (E) Any additional information or documents requested by the Securities Division.

(3) Warrants and the securities underlying the warrants shall each be registered separately.

(4) All applicants for registration shall immediately notify the Securities Division in writing of the following events:

- (A) Any change to the information in the registration statement;

(B) Any stop order, denial, order to show cause, suspension order, revocation order, consent order, cease and desist order, injunction, restraining order, or similar order entered or issued by any state, regulatory authority or court, regarding the applicant, registrant, issuer, their subsidiaries or affiliates; and

(C) Any request by the applicant, registrant or issuer to any other state or regulatory authority for permission to withdraw any application to register the securities covered by the registration statement.

AUTHORITY: sections 409.302(b), 409.303(b) and (c), 409.304(b), 409.305, 409.306 and 409.413(a) and (c), RSMo 2000. Original rule filed Aug. 30, 2002.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Secretary of State's Office, Doug Ommen, Commissioner of Securities, 600 West Main Street, Jefferson City, MO 65101. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 52—Registration of Securities

PROPOSED RESCISSON

15 CSR 30-52.020 Prospectus. This rule prescribed the preparation and use of a disclosure document in the offer or sale of registered securities.

PURPOSE: The commissioner of securities is proposing to rescind this rule and adopt a new rule that more clearly prescribes the preparation and use of a disclosure document in the offer or sale of registered securities.

AUTHORITY: sections 409.101, 409.306(a)(2)(A) and 409.306(E)(i), and 409.413, RSMo 1986. Original rule filed June 25, 1968, effective Aug. 1, 1968. Amended: Filed May 21, 1969, effective Aug. 1, 1969. Amended: Filed July 21, 1972, effective Aug. 1, 1972. Amended: Filed Nov. 15, 1974, effective Nov. 25, 1974. Amended: Filed Aug. 11, 1978, effective Feb. 11, 1979. Rescinded: Filed Aug. 30, 2002.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Secretary of State's Office, Doug Ommen, Commissioner of Securities, 600 West Main Street, Jefferson City, MO 65101. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 52—Registration of Securities

PROPOSED RULE

15 CSR 30-52.020 Prospectus

PURPOSE: This rule prescribes the preparation and use of a disclosure document in the offer or sale of registered securities.

(1) Each registration statement shall include at least two (2) copies of the prospectus to be used in the proposed securities offering.

(2) Form and Content. The prospectus shall be prepared using the following forms and shall contain the information specified in the forms, together with any additional information the Securities Division may require—

(A) Registration by Coordination. The prospectus for a securities registration by coordination under section 409.303, RSMo shall be prepared using the forms required under the Securities Act of 1933.

(B) Registration by Qualification.

1. Other than small company offering registrations, the prospectus for a securities registration by qualification under section 409.304, RSMo shall be prepared using the following forms:

A. Part II of form 1-A of regulation A of the Securities Act of 1933 as in effect in March 1999 (See 15 CSR 30-52.041 for financial statement requirements); or

B. Parts I and II of form SB-2 of the Securities Act of 1933, as in effect in June 2000 (See 15 CSR 30-52.041 for financial statement requirements).

2. For small company offering registrations pursuant to 15 CSR 30-52.201, the prospectus to be used shall be form U-7, as adopted and revised by North American Securities Administrators Association, Inc. (NASAA) in September 1999.

3. Any other applicable form may be used to prepare a prospectus under the Securities Act of 1933, if approved by the Securities Division.

(3) Delivery of Prospectus. As a condition of registration, an applicant shall comply with the following:

(A) A person offering or selling a security under a registration by qualification, other than through a broker-dealer, shall deliver a copy of the final prospectus to each prospective purchaser no later than the date of execution of the subscription agreement. Each subscription agreement shall contain a statement by the purchaser that the purchaser has received a copy of the prospectus; and

(B) A person offering or selling a security under a registration by coordination shall deliver a copy of the prospectus as required by the Securities Act of 1933.

(4) Each prospectus must be typed and clearly legible.

AUTHORITY: sections 409.101, 409.303(b) and (c), 409.304(b) and (d), 409.305, 409.306 and 409.413, RSMo 2000. Original rule filed June 25, 1968, effective Aug. 1, 1968. For intervening history, please consult the *Code of State Regulations*. Rescinded and readopted: Filed Aug. 30, 2002.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule will cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Secretary of State's Office, Doug Ommen, Commissioner of

Securities, 600 West Main Street, Jefferson City, MO 65101. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 52—Registration of Securities

PROPOSED RULE

15 CSR 30-52.025 Financial Statements

PURPOSE: This rule prescribes the general standards for financial statements to be used in a registration statement.

(1) All historical financial statements in the registration statement shall be in conformity with generally accepted accounting principles.

(2) Registration by Coordination. Financial statements filed with a registration statement by coordination shall comply with the requirements of the United States Securities and Exchange Commission.

(3) Registration by Qualification and Notification. The financial statements filed with a registration statement by qualification or notification shall consist of the following:

(A) Audited Balance Sheet. An audited balance sheet of the issuer within four (4) months prior to the filing of the registration statement;

(B) Audited Financial Statements. Audited financial statements of income, cash flows and changes in stockholders' equity for the last fiscal year (or such shorter period as the issuer has been in business);

(C) Reviewed Financial Statements. Reviewed financial statements for the two (2) fiscal years preceding the last fiscal year, unless audited financial statements are available for those periods. The financial statements shall include statements of income, cash flow and changes in stockholders' equity; and

(D) Reviewed Interim Financial Statements. Reviewed interim financial statements between the close of the last fiscal year and the date of the balance sheet. The interim financial statements shall include statements of income, cash flow and changes in stockholders' equity.

(4) Prospective financial statements may be used in connection with a registered offering if all of the following conditions exist:

(A) The prospective financial statements shall be financial forecasts that conform with guidelines established by the American Institute of Certified Public Accountants; and

(B) The financial forecasts shall be included in the prospectus.

(5) *Pro forma* financial information may be used in connection with a registered offering and not be subject to the conditions of subsection (4)(A) above if such *pro forma* financial information complies with 17 CFR 210.11-02.

AUTHORITY: sections 409.302(a) and (b), 409.303(b) and (d), 409.304(b), 409.305 and 409.413(c), RSMo 2000. Original rule filed Aug. 30, 2002.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule will cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri

Secretary of State's Office, Doug Ommen, Commissioner of Securities, 600 West Main Street, Jefferson City, MO 65101. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 52—Registration of Securities**

PROPOSED RESCISSON

15 CSR 30-52.030 Standards. This rule prescribed general standards for the registration of securities.

PURPOSE: *The commissioner of securities is proposing to rescind this rule and adopt a new rule that more clearly prescribes the general standards for the registration of securities.*

AUTHORITY: *sections 409.306 and 409.413(a), RSMo 1986. Original rule filed June 25, 1968, effective Aug. 1, 1968. Amended: Filed May 21, 1969, effective Aug. 1, 1969. Amended: Filed July 21, 1972, effective Aug. 1, 1972. Amended: Filed Nov. 15, 1974, effective Nov. 25, 1974. Rescinded: Filed Aug. 30, 2002.*

PUBLIC COST: *This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

PRIVATE COST: *This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

NOTICE TO SUBMIT COMMENTS: *Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Secretary of State's Office, Doug Ommen, Commissioner of Securities, 600 West Main Street, Jefferson City, MO 65101. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 52—Registration of Securities**

PROPOSED RULE

15 CSR 30-52.030 NASAA Statements of Policy

PURPOSE: *This rule promotes uniformity with other states and prescribes the guidelines to be applied to securities registrations in order to determine if the offering is fair, just and equitable.*

PUBLISHER'S NOTE: *The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. Therefore, the material which is so incorporated is on file with the agency who filed this rule, and with the Office of the Secretary of State. Any interested person may view this material at either agency's headquarters or the same will be made available at the Office of the Secretary of State at a cost not to exceed actual cost of copy reproduction. The entire text of the rule is printed here. This note refers only to the incorporated by reference material.*

(1) The Securities Division will apply the applicable statement of policy adopted by North American Securities Administrators Association, Inc. (NASAA) when conducting a merit review to determine whether an offering is fair, just and equitable.

(A) The following statements of policy are hereby adopted by reference:

1. Corporate Securities Definitions, as amended by NASAA on September 28, 1999;
2. Loans and Other Material Affiliated Transactions, as amended by NASAA on November 18, 1997;
3. Options and Warrants, as amended by NASAA on September 28, 1999;
4. Preferred Stock, as amended by NASAA on April 27, 1997;
5. Promoter's Equity Investment, as adopted by NASAA on April 27, 1997;
6. Promotional Shares, as amended by NASAA on September 28, 1999;
7. Risk Disclosure Guidelines, as adopted by NASAA on September 9, 2001;
8. Specificity in Use of Proceeds, as amended by NASAA on September 28, 1999;
9. Underwriting Expenses, Underwriter's Warrants, Selling Expenses and Selling Security Holders, as adopted by NASAA on September 28, 1999;
10. Unsound Financial Condition, as adopted by NASAA on September 28, 1999;
11. Unequal Voting Rights, as adopted by NASAA on October 24, 1991;
12. Registration of Asset-Backed Securities, as adopted by NASAA on October 25, 1995;
13. Mortgage Program Guidelines, as adopted by NASAA on September 10, 1996;
14. Real Estate Programs, as amended by NASAA on September 29, 1993;
15. Real Estate Investment Trusts, as revised by NASAA on September 29, 1993;
16. Registration of Oil and Gas Programs, as amended by NASAA on October 24, 1991;
17. Equipment Programs, as amended by NASAA on October 24, 1991;
18. Commodity Pool Programs, as amended by NASAA on August 30, 1990;
19. Cattle-Feeding Programs, as adopted by NASAA on September 17, 1980; and
20. Omnibus Guidelines, as adopted by NASAA on March 29, 1992.

(B) The Omnibus Guidelines shall be applied to limited partnerships programs or other entities in which more specific statements of policy have not been adopted by NASAA.

(2) Cross-Reference Sheet. If requested by the Securities Division, a registration statement to register securities shall include a cross-reference table to indicate compliance with, or deviation from, the various sections of the applicable statement of policy.

(3) Suitability for Direct Participation Programs.

(A) In establishing standards of fairness and equity, the Securities Division has established the following investor suitability guidelines for direct participation programs registered under the Act:

1. A gross income of forty-five thousand dollars (\$45,000) and a net worth of forty-five thousand dollars (\$45,000) (exclusive of home, home furnishings and automobiles); or
2. A net worth of one hundred fifty thousand dollars (\$150,000) (exclusive of home, home furnishings and automobiles); and
3. No more than ten percent (10%) of any one (1) Missouri investor's liquid net worth shall be invested in the securities being registered with the Securities Division.

(B) The suitability standard in subsection (3)(A) is a guideline. Higher or lower suitability standards may be established or may be required by the Securities Division as a condition of registration.

(C) The suitability standards must be disclosed in the prospectus.

AUTHORITY: 409.304, 409.305, 409.306 and 409.413(a), RSMo 2000. Original rule filed June 25, 1968, effective Aug. 1, 1968. For intervening history, please consult the *Code of State Regulations*. Rescinded and readopted: Filed Aug. 30, 2002.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Secretary of State's Office, Doug Ommen, Commissioner of Securities, 600 West Main Street, Jefferson City, MO 65101. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 52—Registration of Securities

PROPOSED RESCISSION

15 CSR 30-52.040 Selling Expenses and Selling Security Holders. This rule prescribed the standards of fairness for selling expenses and selling security holders.

PURPOSE: The commissioner of securities is proposing to rescind this rule and adopt a new rule at Missouri regulation 15 CSR 30-52.030 that promotes uniformity with other states and adopts the most recent North American Securities Administrators Association, Inc. (NASAA) Statement of Policy Regarding Underwriting Expenses, Underwriters' Warrants, Selling Expenses and Selling Security Holders.

AUTHORITY: sections 409.306 and 409.413(a), RSMo 1986. Original rule filed June 25, 1968, effective Aug. 1, 1968. For intervening history, please consult the *Code of State Regulations*. Rescinded: Filed Aug. 30, 2002.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Secretary of State's Office, Doug Ommen, Commissioner of Securities, 600 West Main Street, Jefferson City, MO 65101. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 52—Registration of Securities

PROPOSED RESCISSION

15 CSR 30-52.050 Offering Price. This rule prescribed the requirements of the offering price to purchasers.

PURPOSE: The commissioner of securities is proposing to rescind this rule. The commissioner has determined that the current regula-

tion of the offering price does not provide added protection to purchasers.

AUTHORITY: sections 409.306 and 409.413(a), RSMo 1986. Original rule filed June 25, 1968, effective Aug. 1, 1968. For intervening history, please consult the *Code of State Regulations*. Rescinded: Filed Aug. 30, 2002.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Secretary of State's Office, Doug Ommen, Commissioner of Securities, 600 West Main Street, Jefferson City, MO 65101. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 52—Registration of Securities

PROPOSED RESCISSION

15 CSR 30-52.060 Options and Warrants. This rule prescribed the standards for determining when the amounts and kinds of options are reasonable.

PURPOSE: The commissioner of securities is proposing to rescind this rule and adopt a new rule at Missouri regulation 15 CSR 30-52.030 that promotes uniformity with other states and adopts the most recent North American Securities Administrators Association, Inc. (NASAA) Statement of Policy Regarding Options and Warrants.

AUTHORITY: sections 409.306 and 409.413(a), RSMo 1986. Original rule filed June 25, 1968, effective Aug. 1, 1968. For intervening history, please consult the *Code of State Regulations*. Rescinded: Filed Aug. 30, 2002.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Secretary of State's Office, Doug Ommen, Commissioner of Securities, 600 West Main Street, Jefferson City, MO 65101. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 52—Registration of Securities

PROPOSED RESCISSION

15 CSR 30-52.070 Promotional Shares. This rule prescribed the standards concerning the sale of other securities, for other than cash or at a price different from the public offering price.

PURPOSE: The commissioner of securities is proposing to rescind this rule and adopt a new rule at Missouri regulation 15 CSR 30-52.030 that promotes uniformity with other states and adopts the most recent North American Securities Administrators Association, Inc. (NASAA) Statement of Policy Regarding Promotional Shares.

AUTHORITY: sections 409.306 and 409.413(a), RSMo 1986. Original rule filed June 25, 1968, effective Aug. 1, 1968. For intervening history, please consult the *Code of State Regulations*. Rescinded: Filed Aug. 30, 2002.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Secretary of State's Office, Doug Ommen, Commissioner of Securities, 600 West Main Street, Jefferson City, MO 65101. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 52—Registration of Securities

PROPOSED RESCISSION

15 CSR 30-52.080 Promoters' Investment. This rule prescribed the amounts required and the procedures for ensuring promoters' investment participation.

PURPOSE: The commissioner of securities is proposing to rescind this rule and adopt a new rule at Missouri regulation 15 CSR 30-52.030 that promotes uniformity with other states and adopts the most recent North American Securities Administrators Association, Inc. (NASAA) Statement of Policy Regarding Promoter's Equity Investment.

AUTHORITY: sections 409.306 and 409.413(a), RSMo 1986. Original rule filed June 25, 1968, effective Aug. 1, 1968. For intervening history, please consult the *Code of State Regulations*. Rescinded: Filed Aug. 30, 2002.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Secretary of State's Office, Doug Ommen, Commissioner of Securities, 600 West Main Street, Jefferson City, MO 65101. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 52—Registration of Securities

PROPOSED RESCISSION

15 CSR 30-52.100 Impoundment. This rule prescribed the procedures for impounding proceeds that were obtained from the sale of registered securities.

PURPOSE: The commissioner of securities is proposing to rescind this rule and adopt a new rule that more clearly describes the procedure for impounding proceeds and promotes uniformity with other states by adopting the most recent North American Securities Administrators Association, Inc. (NASAA) Statement of Policy Regarding the Impoundment of Proceeds.

AUTHORITY: sections 409.305(f) and 409.413(a), RSMo 1986. Original rule filed June 25, 1968, effective Aug. 1, 1968. Amended: Filed May 21, 1969, effective Aug. 1, 1969. Amended: Filed July 21, 1972, effective Aug. 1, 1972. Amended: Filed Nov. 15, 1974, effective Nov. 25, 1974. Rescinded: Filed Aug. 30, 2002.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Secretary of State's Office, Doug Ommen, Commissioner of Securities, 600 West Main Street, Jefferson City, MO 65101. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 52—Registration of Securities

PROPOSED RULE

15 CSR 30-52.100 Impoundment of Proceeds

PURPOSE: This rule promotes uniformity with other states and prescribes procedures for impounding proceeds that are obtained from the sale of registered securities.

PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. Therefore, the material which is so incorporated is on file with the agency who filed this rule, and with the Office of the Secretary of State. Any interested person may view this material at either agency's headquarters or the same will be made available at the Office of the Secretary of State at a cost not to exceed actual cost of copy reproduction. The entire text of the rule is printed here. This note refers only to the incorporated by reference material.

(1) The Securities Division hereby adopts by reference the North American Securities Administrators Association, Inc. (NASAA) Statement of Policy Regarding the Impoundment of Proceeds, as amended by NASAA on September 28, 1999.

(2) The Securities Division will apply the NASAA Statement of Policy Regarding the Impoundment of Proceeds when conducting its merit review to determine whether an offering is fair, just and equitable.

(3) As a condition of registration, the minimum amount of proceeds needed to implement the business plan shall be impounded when:

(A) The registration is sought by a promotional or developmental stage company that is financing an initial or proposed business;
 (B) The registration is sought by a company in poor financial condition; or
 (C) The offering is not firmly underwritten.

(4) The applicant shall set a minimum amount of proceeds that is reasonably sufficient to implement the business plan so as to accomplish the purpose of the offering.

(5) The applicant shall use the Missouri form SR-4, Impoundment of Funds Agreement, as the agreement for the impoundment of proceeds, unless the Securities Division permits another similar form to be used.

AUTHORITY: 409.305(f), 409.306 and 409.413(a), RSMo 2000. Original rule filed June 25, 1968, effective Aug. 1, 1968. For intervening history, please consult the *Code of State Regulations*. Rescinded and readopted. Filed Aug. 30, 2002.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Secretary of State's Office, Doug Ommen, Commissioner of Securities, 600 West Main Street, Jefferson City, MO 65101. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 52—Registration of Securities

PROPOSED RESCISSON

15 CSR 30-52.110 Voting Rights. This rule prescribed the standards concerning unequal voting rights among classes of holders of equity securities.

PURPOSE: The commissioner of securities is proposing to rescind this rule and adopt a new rule at Missouri regulation 15 CSR 30-52.030 that promotes uniformity with other states and adopts the most recent North American Securities Administrators Association, Inc. (NASAA) Statement of Policy Regarding Unequal Voting Rights.

AUTHORITY: sections 409.306 and 409.413(a), RSMo 1986. Original rule filed June 25, 1968, effective Aug. 1, 1968. Amended: Filed May 21, 1969, effective Aug. 1, 1969. Amended: Filed July 21, 1972, effective Aug. 1, 1972. Amended: Filed Nov. 15, 1974, effective Nov. 25, 1974. Amended: Filed Oct. 16, 1986, effective Feb. 12, 1987. Rescinded: Filed Aug. 30, 2002.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Secretary of State's Office, Doug Ommen, Commissioner of

Securities, 600 West Main Street, Jefferson City, MO 65101. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 52—Registration of Securities

PROPOSED RESCISSON

15 CSR 30-52.120 Preferred Stock and Debt Securities. This rule prescribed the standards of fairness in connection with the registration of preferred stock and debt securities.

PURPOSE: The commissioner of securities is proposing to rescind this rule and adopt a new rule at 15 CSR 30-52.030 and 15 CSR 30-52.120 that more clearly prescribes the standards for registering preferred stock and debt securities and that promotes uniformity with other states by adopting the most recent North American Securities Administrators Association, Inc. (NASAA) Statements of Policy Regarding Preferred Stock and Debt Securities.

AUTHORITY: sections 409.306 and 409.413(a), RSMo 1986. Original rule filed May 21, 1969, effective Aug. 1, 1969. Amended: Filed July 21, 1972, effective Aug. 1, 1972. Amended: Filed Nov. 15, 1974, effective Nov. 25, 1974. Rescinded: Filed Aug. 30, 2002.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Secretary of State's Office, Doug Ommen, Commissioner of Securities, 600 West Main Street, Jefferson City, MO 65101. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 52—Registration of Securities

PROPOSED RULE

15 CSR 30-52.120 Debt Securities

PURPOSE: This rule promotes uniformity with other states and prescribes standards to be used in connection with the registration of debt securities.

PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. Therefore, the material which is so incorporated is on file with the agency who filed this rule, and with the Office of the Secretary of State. Any interested person may view this material at either agency's headquarters or the same will be made available at the Office of the Secretary of State at a cost not to exceed actual cost of copy reproduction. The entire text of the rule is printed here. This note refers only to the incorporated by reference material.

(1) The Securities Division will apply the North American Securities Administrators Association, Inc. (NASAA) Statement of Policy Regarding Debt Securities when conducting a merit review of debt offerings to determine whether an offering is fair, just and equitable.

(2) The Securities Division hereby adopts by reference the NASAA Statement of Policy Regarding Debt Securities, as adopted by NASAA on April 25, 1993.

(3) Development Stage Issuers. The issuance of debt securities by an issuer in the promotional or development stage with no substantial net earnings from normal business operations during each of its last three (3) fiscal years will be viewed by the division as being unfair, unjust and inequitable.

(4) Suitability.

(A) In establishing standards of fairness and equity, the Securities Division has established the following investor suitability guidelines for debt offerings registered under the Act:

1. A gross income of forty-five thousand dollars (\$45,000) and a net worth of forty-five thousand dollars (\$45,000) (exclusive of home, home furnishings and automobiles); or

2. A net worth of one hundred fifty thousand dollars (\$150,000) (exclusive of home, home furnishings and automobiles); and

3. No more than ten percent (10%) of any one (1) Missouri investor's liquid net worth shall be invested in the securities being registered with the Securities Division.

(B) The suitability standard in subsection (4)(A) is a guideline. Higher or lower suitability standards may be established or may be required by the Securities Division as a condition of registration.

(C) The suitability standards must be disclosed in the prospectus.

*AUTHORITY: sections 409.306 and 409.413(a), RSMo 2000. Original rule filed May 21, 1969, effective Aug. 1, 1969. For intervening history, please consult the **Code of State Regulations**. Rescinded and readopted: Filed Aug. 30, 2002.*

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Secretary of State's Office, Doug Ommen, Commissioner of Securities, 600 West Main Street, Jefferson City, MO 65101. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 52—Registration of Securities

PROPOSED RESCISSION

15 CSR 30-52.130 Loans and Other Material-Affiliated Transactions. This rule prescribed the standards of fairness for loans and material-affiliated transactions.

PURPOSE: The commissioner of securities is proposing to rescind this rule and adopt a new rule at Missouri regulation 15 CSR 30-52.030 that promotes uniformity with other states and adopts the most recent North American Securities Administrators Association, Inc. (NASAA) Statement of Policy Regarding Loans and Other Material Affiliated Transactions.

AUTHORITY: sections 409.306 and 409.413(a), RSMo 1986. Original rule filed July 21, 1972, effective Aug. 1, 1972. Amended: Filed Nov. 15, 1974, effective Nov. 25, 1974. Rescinded and readopted: Filed Jan. 3, 1990, effective March 11, 1990. Rescinded: Filed Aug. 30, 2002.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Secretary of State's Office, Doug Ommen, Commissioner of Securities, 600 West Main Street, Jefferson City, MO 65101. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 52—Registration of Securities

PROPOSED RESCISSION

15 CSR 30-52.140 Periodic Payment Plans. This rule prescribed registration requirements for periodic payment plans.

PURPOSE: The commissioner of securities is proposing to rescind this rule as these securities are no longer registered under the Act.

AUTHORITY: sections 409.306 and 409.413(a), RSMo 1986. Original rule filed June 25, 1968, effective Aug. 1, 1968. Amended: Filed May 21, 1969, effective Aug. 1, 1969. Amended: Filed July 21, 1972, effective Aug. 1, 1972. Amended: Filed Nov. 15, 1974, effective Nov. 25, 1974. Amended: Filed April 14, 1992, effective Jan. 15, 1993. Rescinded: Filed Aug. 30, 2002.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Secretary of State's Office, Doug Ommen, Commissioner of Securities, 600 West Main Street, Jefferson City, MO 65101. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 52—Registration of Securities

PROPOSED RESCISSION

15 CSR 30-52.150 Real Estate Investment Trusts or Other Unincorporated Real Estate Trusts. This rule adopted the North American Securities Administrators Association, Inc. (NASAA) Guidelines for the Registration of Real Estate Investment Trusts.

PURPOSE: The commissioner of securities is proposing to rescind this rule and adopt a new rule at Missouri regulation 15 CSR 30-52.030 that promotes uniformity with other states and adopts the most recent NASAA Statement of Policy Regarding Real Estate Investment Trusts.

AUTHORITY: sections 409.306 and 409.413(a), RSMo 1986. Original rule filed June 25, 1968, effective Aug. 1, 1968. Amended: Filed May 21, 1969, effective Aug. 1, 1969. Amended: Filed July 21, 1972, effective Aug. 1, 1972. Amended: Filed Nov. 15, 1974, effective Nov. 25, 1974. Rescinded and readopted: Filed Aug. 1, 1984, effective Nov. 11, 1984. Rescinded: Filed Aug. 30, 2002.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Secretary of State's Office, Doug Ommen, Commissioner of Securities, 600 West Main Street, Jefferson City, MO 65101. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 52—Registration of Securities

PROPOSED RESCISSION

15 CSR 30-52.160 **Redeemable Securities Issued by Open-End Management Companies.** This rule prescribed the standard for the registration of redeemable securities issued by open-end management companies (mutual funds).

PURPOSE: The commissioner of securities is proposing to rescind this rule as these securities are no longer registered under the Act.

AUTHORITY: sections 409.306 and 409.413(a), RSMo 1986. Original rule filed June 25, 1968, effective Aug. 1, 1968. Amended: Filed May 21, 1969, effective Aug. 1, 1969. Amended: Filed July 21, 1972, effective Aug. 1, 1972. Amended: Filed Nov. 15, 1974, effective Nov. 25, 1974. Amended: Filed Dec. 19, 1975, effective Dec. 31, 1975. Amended: Filed Aug. 1, 1984, effective Nov. 11, 1984. Amended: Filed Sept. 14, 1993, effective May 9, 1994. Rescinded: Filed Aug. 30, 2002.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Secretary of State's Office, Doug Ommen, Commissioner of Securities, 600 West Main Street, Jefferson City, MO 65101. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 52—Registration of Securities

PROPOSED RESCISSION

15 CSR 30-52.180 **Limited Partnerships.** This rule prescribed the standards for the registration of certificates of interest or participation in limited partnerships.

PURPOSE: The commissioner of securities is proposing to rescind this rule and adopt a new rule at Missouri regulation 15 CSR 30-52.030 that promotes uniformity with other states and adopts the most recent North American Securities Administrators Association, Inc. (NASAA) Statements of Policy regarding limited partnership programs.

AUTHORITY: sections 409.306 and 409.413(a), RSMo 1986. Original rule filed July 21, 1972, effective Aug. 1, 1972. For intervening history, please consult the *Code of State Regulations*. Rescinded: Filed Aug. 30, 2002.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Secretary of State's Office, Doug Ommen, Commissioner of Securities, 600 West Main Street, Jefferson City, MO 65101. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 52—Registration of Securities

PROPOSED RESCISSION

15 CSR 30-52.190 **Foreign Real Estate Securities.** This rule prescribed the standards for the registration of installment or deferred payment sale contracts covering land located outside of Missouri.

PURPOSE: The commissioner of securities is proposing to rescind this rule and, if necessary, allow issuers to register these securities under the procedure described in Missouri regulation 15 CSR 30-52.015.

AUTHORITY: sections 409.306 and 409.413(a), RSMo 1986. Original rule filed July 21, 1972, effective Aug. 1, 1972. Amended: Filed Nov. 15, 1974, effective Nov. 25, 1974. Amended: Filed July 3, 1989, effective Sept. 28, 1989. Rescinded: Filed Aug. 30, 2002.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Secretary of State's Office, Doug Ommen, Commissioner of Securities, 600 West Main Street, Jefferson City, MO 65101. To be

considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 52—Registration of Securities

PROPOSED RESCISSION

15 CSR 30-52.200 Contingent Civil Liability. This rule required, as a prerequisite to securities registration, that rescission be offered to all investors having a cause of action against the applicant or issuer.

PURPOSE: *The commissioner of securities is proposing to rescind this rule and adopt a new rule that more clearly prescribes when an offer of refund needs to be made prior to securities registration.*

AUTHORITY: sections 409.411 and 409.413(a), RSMo 1986. Original rule filed July 21, 1972, effective Aug. 1, 1972. Amended: Filed Nov. 15, 1974, effective Nov. 25, 1974. Rescinded: Filed Aug. 30, 2002.

PUBLIC COST: *This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

PRIVATE COST: *This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

NOTICE TO SUBMIT COMMENTS: *Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Secretary of State's Office, Doug Ommen, Commissioner of Securities, 600 West Main Street, Jefferson City, MO 65101. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.*

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 52—Registration of Securities

PROPOSED RULE

15 CSR 30-52.200 Offer of Refund Prior to Registration

PURPOSE: *This rule requires, as a prerequisite to securities registration, that rescission be offered to all investors having a cause of action against the applicant or issuer.*

An offer of refund (rescission) to each person having a cause of action against the applicant or the issuer, within the meaning of section 409.411 of the Act, shall be a prerequisite to the registration of securities. A suggested form of offer of refund (rescission) is located at 15 CSR 30-52.260.

AUTHORITY: sections 409.306, 409.411 and 409.413(a), RSMo 2000. Original rule filed July 21, 1972, effective Aug. 1, 1972. Amended: Filed Nov. 15, 1974, effective Nov. 25, 1974. Rescinded and readopted: Filed Aug. 30, 2002.

PUBLIC COST: *This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

PRIVATE COST: *This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

NOTICE TO SUBMIT COMMENTS: *Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Secretary of State's Office, Doug Ommen, Commissioner of Securities, 600 West Main Street, Jefferson City, MO 65101. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.*

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 52—Registration of Securities

PROPOSED RESCISSION

15 CSR 30-52.210 Securities Issued by Closed-End Investment Companies. This rule prescribed the standard for the registration of securities issued by closed-end investment companies.

PURPOSE: *The commissioner of securities is proposing to rescind this rule for these securities are no longer registered under the Act.*

AUTHORITY: sections 409.306 and 409.413(a), RSMo 1986. Original rule filed Dec. 19, 1975, effective Dec. 31, 1975. Rescinded: Filed Aug. 30, 2002.

PUBLIC COST: *This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

PRIVATE COST: *This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

NOTICE TO SUBMIT COMMENTS: *Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Secretary of State's Office, Doug Ommen, Commissioner of Securities, 600 West Main Street, Jefferson City, MO 65101. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.*

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 52—Registration of Securities

PROPOSED RESCISSION

15 CSR 30-52.230 Sample Form of Security Escrow Agreement. This rule contained an escrow agreement form that was to be used when the Securities Division required that the securities be placed in escrow.

PURPOSE: *The commissioner of securities is proposing to rescind this rule and adopt a new rule at Missouri regulation 15 CSR 30-52.030 that promotes uniformity with other states and adopts the most recent North American Securities Administrators Association, Inc. (NASAA) Statement of Policy Regarding Promotional Shares.*

AUTHORITY: sections 409.306 and 409.413(a), RSMo 1986. Original rule filed June 25, 1968, effective Aug. 1, 1968. For intervening history, please consult the *Code of State Regulations*. Rescinded: Filed Aug. 30, 2002.

PUBLIC COST: *This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Secretary of State's Office, Doug Ommen, Commissioner of Securities, 600 West Main Street, Jefferson City, MO 65101. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 52—Registration of Securities

PROPOSED RESCISSION

15 CSR 30-52.250 Impoundment of Proceeds. This rule prescribed the standards to be applied when the Securities Division required the impoundment of offering proceeds.

PURPOSE: The commissioner of securities is proposing to rescind this rule and adopt a new rule at Missouri regulation 15 CSR 30-52.100 that promotes uniformity with other states and adopts the most recent North American Securities Administrators Association, Inc. (NASAA) Statement of Policy Regarding Impoundment of Proceeds.

AUTHORITY: sections 409.305 and 409.413(a), RSMo 1986. Original rule filed June 25, 1968, effective Aug. 1, 1968. For intervening history, please consult the *Code of State Regulations*. Rescinded: Filed Aug. 30, 2002.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Secretary of State's Office, Doug Ommen, Commissioner of Securities, 600 West Main Street, Jefferson City, MO 65101. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 52—Registration of Securities

PROPOSED RESCISSION

15 CSR 30-52.260 Suggested Form of Offer of Refund (Rescission). This rule described a simplified form of rescission offer to be provided to investors.

PURPOSE: The commissioner of securities is proposing to rescind this rule and adopt a new rule that more clearly prescribes the form of rescission offer to be provided to investors.

AUTHORITY: sections 409.411 and 409.413(a), RSMo 1986. Original rule filed July 21, 1972, effective Aug. 1, 1972. Amended: Filed Nov. 15, 1974, effective Nov. 25, 1974. Rescinded and readopted: Filed Aug. 1, 1984, effective Nov. 11, 1984. Rescinded: Filed Aug. 30, 2002.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Secretary of State's Office, Doug Ommen, Commissioner of Securities, 600 West Main Street, Jefferson City, MO 65101. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 52—Registration of Securities

PROPOSED RULE

15 CSR 30-52.260 Suggested Form of Offer of Refund (Rescission)

PURPOSE: This rule suggests a simplified form of rescission offer to be provided to investors.

(1) The sample rescission letter contained in this regulation is based upon a violation of section 409.301, RSMo but may be adapted for any other violations of the Act.

(2) The Securities Division suggests the following letter be used to offer rescission:

Certified/Return Receipt Requested

Dear Investor:

This letter is to inform you of your rights under the Missouri Uniform Securities Act, Chapter 409, RSMo 2000 (the "Act"). The (describe securities) that you were sold constitute "securities" under the Act.

Section 409.301, RSMo 2000, requires that any security offered or sold in Missouri must be registered, exempt from registration or a federal covered security. The securities that you purchased were not registered, exempt or federal covered securities. (Include herein any other statutory violation, along with an explanation of the violation).

Section 409.411, RSMo 2000, provides that any person who sells a security in violation of section 409.101 to 409.419, RSMo is liable to the purchaser for the amount of the consideration paid for the security, together with interest of eight percent (8%) per year from the date of purchase, costs and reasonable attorney fees, less the amount of any income received on the security.

This letter is to inform you of these rights and to offer to rescind your securities purchase. Attached is a statement as to whether or not you wish to take advantage of this offer. Please fill out the attached form and return it to this office within thirty (30) days of your receipt of this notice. If you wish to take advantage of the rescission, the amount you originally invested plus eight percent (8%) interest, less any income you received, will be returned to you within ten (10) business days of the receipt of your rescission request. If you do not respond to this offer within thirty (30) days of the date you receive it, your right to rescind your purchase will be extinguished as provided in the Act.

(Name of Issuer)

(Signature)

(Printed Name of Signatory)

I have been informed of my right to rescission under the Missouri Uniform Securities Act by (name of firm offering rescission). I do/do not (circle one) wish to take advantage of this rescission offer.
(Investor's Signature)

AUTHORITY: sections 409.411 and 409.413(a), RSMo 2000. Original rule filed July 21, 1972, effective Aug. 1, 1972. For intervening history, please consult the **Code of State Regulations**. Rescinded and readopted: Filed Aug. 30, 2002.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Secretary of State's Office, Doug Ommen, Commissioner of Securities, 600 West Main Street, Jefferson City, MO 65101. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 52—Registration of Securities

PROPOSED RESCISSION

15 CSR 30-52.271 Missouri Issuer Registration. This rule prescribed a simplified registration process for small offerings of securities.

PURPOSE: The commissioner of securities is proposing to rescind this rule and adopt a new rule at Missouri regulation 15 CSR 30-52.275 that promotes uniformity with other states and adopts the most recent North American Securities Administrators Association, Inc. (NASAA) Statement of Policy Regarding Small Company Offering Registrations.

AUTHORITY: section 409.413(a), RSMo 1986. Original rule filed April 14, 1992, effective Jan. 15, 1993. Rescinded: Filed Aug. 30, 2002.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Secretary of State's Office, Doug Ommen, Commissioner of Securities, 600 West Main Street, Jefferson City, MO 65101. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 52—Registration of Securities

PROPOSED RESCISSION

15 CSR 30-52.272 Suggested Form for Escrow Agreement for Missouri Issuer Registration. This rule prescribed a form for the

escrow of securities pursuant to 15 CSR 30-52.271 Missouri Issuer Registration.

PURPOSE: The commissioner of securities is proposing to rescind this rule and readopt a new rule at Missouri regulation 15 CSR 30-52.275 that promotes uniformity with other states and adopts the most recent North American Securities Administrators Association, Inc. (NASAA) Statement of Policy Regarding Small Company Offering Registrations.

AUTHORITY: section 409.413(a), RSMo 1986. Original rule filed April 14, 1992, effective Jan. 15, 1993. Rescinded: Filed Aug. 30, 2002.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Secretary of State's Office, Doug Ommen, Commissioner of Securities, 600 West Main Street, Jefferson City, MO 65101. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 52—Registration of Securities

PROPOSED RESCISSION

15 CSR 30-52.273 Suggested Form of Refund for Missouri Issuer Registration. This rule prescribed a form for the refund of securities placed in escrow pursuant to 15 CSR 30-52.271 Missouri Issuer Registration.

PURPOSE: The commissioner of securities is proposing to rescind this rule and readopt a new rule at Missouri regulation 15 CSR 30-52.275 that promotes uniformity with other states and adopts the most recent North American Securities Administrators Association, Inc. (NASAA) Statement of Policy Regarding Small Company Offering Registrations.

AUTHORITY: section 409.413(a), RSMo 1986. Original rule filed April 14, 1992, effective Jan. 15, 1993. Rescinded: Filed Aug. 30, 2002.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Secretary of State's Office, Doug Ommen, Commissioner of Securities, 600 West Main Street, Jefferson City, MO 65101. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 52—Registration of Securities

PROPOSED RESCISSION

15 CSR 30-52.275 Small Company Registrations. This rule prescribed the facilitation of capital formation for small business owners.

PURPOSE: *The commissioner of securities is proposing to rescind this rule and adopt a new rule that more clearly prescribes the procedure for facilitating capital formation for small business owners and promotes uniformity with other states by adopting the most recent North American Securities Administrators Association, Inc. (NASAA) Statement of Policy Regarding Small Company Offering Registrations.*

AUTHORITY: section 409.413(a), RSMo 1994. Original rule filed Nov. 1, 1996, effective June 30, 1997. Rescinded: Filed Aug. 30, 2002.

PUBLIC COST: *This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

PRIVATE COST: *This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Secretary of State's Office, Doug Ommen, Commissioner of Securities, 600 West Main Street, Jefferson City, MO 65101. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 52—Registration of Securities

PROPOSED RULE

15 CSR 30-52.275 Small Company Offering Registrations (formerly Missouri Issuer Registration)

PURPOSE: *This rule promotes uniformity with other states and facilitates capital formation for small business owners.*

PUBLISHER'S NOTE: *The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. Therefore, the material which is so incorporated is on file with the agency who filed this rule, and with the Office of the Secretary of State. Any interested person may view this material at either agency's headquarters or the same will be made available at the Office of the Secretary of State at a cost not to exceed actual cost of copy reproduction. The entire text of the rule is printed here. This note refers only to the incorporated by reference material.*

(1) The Securities Division hereby adopts by reference the North American Securities Administrators Association (NASAA) Statement of Policy Regarding Small Company Offering Registrations (SCOR), as adopted by NASAA on April 28, 1996.

(2) A registration statement to register securities under SCOR shall contain the following:

(A) The form U-1 and accompanying documents;

(B) Two (2) copies of the prospectus, including financial statements;

(C) Copies of any documents filed with the Securities and Exchange Commission in connection with the registration statement;

(D) The filing fee and registration fee specified in 15 CSR 30-50.030; and

(E) Any additional information or documents requested by the Securities Division.

(3) Financial Statements. The financial statements for SCOR offerings over one (1) million dollars shall comply with 15 CSR 30-52.025. The financial statements for SCOR offerings up to one (1) million dollars shall also comply with 15 CSR 30-52.025, but only need to be reviewed.

(4) The Securities Division may apply any rule contained in Chapter 52 to SCOR offerings.

AUTHORITY: section 409.304, 409.305, 409.306, and 409.413, RSMo 2000. Original rule filed Nov. 1, 1996, effective June 30, 1997. Rescinded and readopted: Filed Aug. 30, 2002.

PUBLIC COST: *This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

PRIVATE COST: *This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Secretary of State's Office, Doug Ommen, Commissioner of Securities, 600 West Main Street, Jefferson City, MO 65101. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 52—Registration of Securities

PROPOSED RESCISSION

15 CSR 30-52.280 Withdrawal or Termination. This rule prescribes the policies and procedures for withdrawing a registration statement prior to effectiveness.

PURPOSE: *The commissioner of securities is proposing to rescind this rule and adopt a new rule that more clearly prescribes the policies and procedures for withdrawing a registration statement prior to effectiveness.*

AUTHORITY: sections 409.305(h) and 409.413(a), RSMo 1986. Original rule filed June 25, 1968, effective Aug. 1, 1968. Amended: Filed May 21, 1969, effective Aug. 1, 1969. Amended: Filed July 21, 1972, effective Aug. 1, 1972. Amended: Filed March 21, 1974, effective April 1, 1974. Amended: Filed Nov. 15, 1974, effective Nov. 25, 1974. Rescinded: Filed Aug. 30, 2002.

PUBLIC COST: *This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

PRIVATE COST: *This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Secretary of State's Office, Doug Ommen, Commissioner of

Securities, 600 West Main Street, Jefferson City, MO 65101. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 52—Registration of Securities

PROPOSED RULE

15 CSR 30-52.280 Withdrawal of a Registration Statement

PURPOSE: This rule prescribes policies and procedures for withdrawing a registration statement prior to effectiveness.

(1) The withdrawal of an application (prior to effectiveness) may be issued by the commissioner upon the request of the applicant.

(2) The abandonment of an application, where there has been no activity on the application by the applicant for a period of six (6) months or more, may be considered to signify a request for withdrawal.

AUTHORITY: sections 409.305(h) and 409.413(a), RSMo 2000. Original rule filed June 25, 1968, effective Aug. 1, 1968. For intervening history, please consult the **Code of State Regulations**. Rescinded and readopted: Filed Aug. 30, 2002.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Secretary of State's Office, Doug Ommen, Commissioner of Securities, 600 West Main Street, Jefferson City, MO 65101. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 52—Registration of Securities

PROPOSED RESCISSON

15 CSR 30-52.290 Effectiveness. This rule prescribed the policies and procedures in determining the effectiveness of the registration of securities.

PURPOSE: The commissioner of securities is proposing to rescind this rule. Statutes under the Act currently provide the substance of this rule.

AUTHORITY: sections 409.302(c), 409.303(c), 409.304(c), 409.305(h) and 409.413(a), RSMo 1986. Original rule filed June 25, 1968, effective Aug. 1, 1968. Amended: Filed May 21, 1969, effective Aug. 1, 1969. Amended: Filed July 21, 1972, effective Aug. 1, 1972. Amended: Filed Nov. 15, 1974, effective Nov. 25, 1974. Rescinded: Filed Aug. 30, 2002.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Secretary of State's Office, Doug Ommen, Commissioner of Securities, 600 West Main Street, Jefferson City, MO 65101. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 52—Registration of Securities

PROPOSED RESCISSON

15 CSR 30-52.300 Amendments. This rule prescribed the policies and procedures for amending a registration statement.

PURPOSE: The commissioner of securities is proposing to rescind this rule and adopt a new rule that more clearly describes the policies and procedures for amending a registration statement.

AUTHORITY: sections 409.305(g), (i) and (j) and 409.413(a), RSMo 1986. Original rule filed June 25, 1968, effective Aug. 1, 1968. Amended: Filed May 21, 1969, effective Aug. 1, 1969. Amended: Filed July 21, 1972, effective Aug. 1, 1972. Amended: Filed Nov. 15, 1974, effective Nov. 25, 1974. Rescinded: Filed Aug. 30, 2002.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Secretary of State's Office, Doug Ommen, Commissioner of Securities, 600 West Main Street, Jefferson City, MO 65101. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 52—Registration of Securities

PROPOSED RULE

15 CSR 30-52.300 Post-Effective Amendments and Notices to a Registration Statement

PURPOSE: This rule prescribes policies and procedures for amending a registration statement.

(1) During the effective period of a registration statement, except as mentioned in section (2) below, the registrant shall notify the Securities Division within fifteen (15) business days of the following:

(A) Any change to any of the documents contained in the registration statement on file with the Securities Division.

(B) Any inaccurate, incorrect, or misleading statements contained in the registration statement.

(C) Any material change relating to the issuer, offering or registration statement that includes, but is not limited to, the following:

1. Change in issuer's address;
2. Change in issuer's law firm or accounting firm;
3. Change in risk factors;
4. Change in the use of proceeds;
5. Change in the underwriting or plan of distribution;
6. Change in management or control or transactions with management;
7. Change in ownership of principal properties;
8. Acquisition, revaluation or disposition of principal assets;
9. Legal proceedings, other than in the ordinary course of business;
10. Defaults upon senior or subordinate securities;
11. Release of securities or funds from escrow or impoundment, or modification of escrow arrangements;
12. Issuance, purchase or exercise of options;
13. Increase or decrease in authorized securities;
14. Change in stock transfer agent;
15. Change in securities, amount offered, offering price, par value, stock dividends or splits, rights of shareholders or matters of vote by security holders; and
16. Change in financial condition or financial statements, including financial forecasts.

(D) Any stop order, denial, order to show cause, suspension order, revocation order, consent order, cease and desist order, injunction, restraining order, or similar order entered or issued by any state, regulatory authority or court, regarding the applicant, registrant, issuer, their subsidiaries or affiliates.

(E) Any request by the registrant or issuer to any other state or regulatory authority for permission to withdraw any application to register the securities covered by the registration statement or of any termination by the issuer of the offering in any state where the securities are registered.

(F) Any other information requested by the Securities Division in connection with the offering or the registration statement.

(2) For registrations by coordination, the registrant shall promptly forward to the commissioner all amendments and supplements to the registration statement within one (1) business day after these documents are filed with the Securities and Exchange Commission.

(3) Enclosed with each amendment shall be a written cover letter that describes the material changes to the registration statement. Additionally, the amended prospectus shall be redlined or marked to reflect the changes.

AUTHORITY: sections 409.303(b)(3) and (4), 409.304, 409.305, 409.306 and 409.413(a), RSMo 2000. Original rule filed June 25, 1968, effective Aug. 1, 1968. For intervening history, please consult the Code of State Regulations. Rescinded and readopted: Filed Aug. 30, 2002.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Secretary of State's Office, Doug Ommen, Commissioner of Securities, 600 West Main Street, Jefferson City, MO 65101. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 52—Registration of Securities

PROPOSED RESCISSON

15 CSR 30-52.310 Completion. This rule prescribed the notice to be provided to the Securities Division upon the completion of an offering in Missouri.

PURPOSE: The commissioner of securities is proposing to rescind this rule and adopt a new rule that more clearly prescribes the notice to be provided to the Securities Division upon the completion of an offering in Missouri.

AUTHORITY: sections 409.305(g) and (i) and 409.413(a), RSMo 1986. Original rule filed June 25, 1968, effective Aug. 1, 1968. Amended: Filed May 21, 1969, effective Aug. 1, 1969. Amended: Filed July 21, 1972, effective Aug. 1, 1972. Amended: Filed Nov. 15, 1974, effective Nov. 25, 1974. Rescinded: Filed Aug. 30, 2002.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Secretary of State's Office, Doug Ommen, Commissioner of Securities, 600 West Main Street, Jefferson City, MO 65101. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 52—Registration of Securities

PROPOSED RULE

15 CSR 30-52.310 Report of Completion of a Registration Statement

PURPOSE: This rule prescribes the notice to be provided to the Securities Division upon the completion of an offering in Missouri.

(1) Within fifteen (15) business days of the completion of an offering in Missouri, the registrant shall provide a written statement to the Securities Division that states the following:

- (A) The date the offering was completed in Missouri; and
- (B) The number and amount of registered securities sold in Missouri.

(2) The written statement needs to be signed by an officer or director of the issuer.

AUTHORITY: sections 409.305(i) and 409.413(a), RSMo 2000. Original rule filed June 25, 1968, effective Aug. 1, 1968. For intervening history, please consult the Code of State Regulations. Rescinded and readopted: Filed Aug. 30, 2002.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Secretary of State's Office, Doug Ommen, Commissioner of Securities, 600 West Main Street, Jefferson City, MO 65101. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 52—Registration of Securities

PROPOSED RESCISSON

15 CSR 30-52.320 Reports. This rule prescribed the annual report to be provided to the Securities Division during the effective period of a registration statement.

PURPOSE: The commissioner of securities is proposing to rescind this rule and adopt a new rule that more clearly prescribes the annual report to be provided to the Securities Division during the effective period of a registration statement.

AUTHORITY: sections 409.305(g) and (i) and 409.413(a), RSMo 1986. Original rule filed June 25, 1968, effective Aug. 1, 1968. Amended: Filed May 21, 1969, effective Aug. 1, 1969. Amended: Filed July 21, 1972, effective Aug. 1, 1972. Amended: Filed March 21, 1974, effective Nov. 25, 1974. Amended: Filed Oct. 15, 1987, effective Jan. 29, 1988. Rescinded: Filed Aug. 30, 2002.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Secretary of State's Office, Doug Ommen, Commissioner of Securities, 600 West Main Street, Jefferson City, MO 65101. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 52—Registration of Securities

PROPOSED RULE

15 CSR 30-52.320 Annual Report for the Renewal of a Registration Statement

PURPOSE: This rule requires that an annual report be provided to the Securities Division during the effective period of a registration statement.

(1) During the effective period of a registration statement, the registrant shall annually file with the Securities Division a completed form SR-2 at least thirty (30) days before the anniversary of the effective date of the registration statement.

(2) The registrant shall include a filing fee of one hundred dollars (\$100).

AUTHORITY: sections 409.305(b), (h) and (i) and 409.413(a), RSMo 2000. Original rule filed June 25, 1968, effective Aug. 1, 1968. For intervening history, please consult the **Code of State Regulations**. Rescinded and readopted: Filed Aug. 30, 2002.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Secretary of State's Office, Doug Ommen, Commissioner of Securities, 600 West Main Street, Jefferson City, MO 65101. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 52—Registration of Securities

PROPOSED RESCISSON

15 CSR 30-52.330 Records to be Preserved by Issuers in Issuer Distributions. This rule prescribed the records to be preserved by issuers who effect sales of registered securities other than through broker-dealers.

PURPOSE: The commissioner of securities is proposing to rescind this rule and adopt a new rule that more clearly prescribes the records to be preserved by issuers who effect sales of registered securities.

AUTHORITY: sections 409.305(g) and (i) and 409.413(a), RSMo 1986. Original rule filed June 25, 1968, effective Aug. 1, 1968. Amended: Filed May 21, 1969, effective Aug. 1, 1969. Amended: Filed July 21, 1972, effective Aug. 1, 1972. Amended: Filed Nov. 15, 1974, effective Nov. 25, 1974. Rescinded: Filed Aug. 30, 2002.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Secretary of State's Office, Doug Ommen, Commissioner of Securities, 600 West Main Street, Jefferson City, MO 65101. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 52—Registration of Securities

PROPOSED RULE

15 CSR 30-52.330 Records to be Preserved by Issuers

PURPOSE: This rule prescribes the records to be preserved by issuers who effect sales of registered securities other than through broker-dealers.

(1) All issuers who effect sales of registered securities, other than through a broker-dealer, shall preserve the following records for at least three (3) years following the expiration of the registration:

(A) Copies of all documents contained in the registration statement;

(B) Copies of all advertisements, including a record of the dates, names and addresses of media carrying those advertisements;

(C) Copies of all communications received and sent by the issuer pertaining to the offer, sale and transfer of the securities, including purchase agreements and confirmations; and

(D) A list of the name, address and telephone number of each investor to whom the securities were sold, and for each such person, information regarding—

1. The type of securities sold;
2. The number and amount of securities sold;
3. The type of consideration paid; and
4. The name of the agent that sold the securities.

(2) An issuer will need to retain the records set forth in section (1) for each investor at least three (3) years after the investor's investment has terminated, even if more than three (3) years has lapsed since the expiration of the registration.

(3) Records may be stored in paper form or electronically.

AUTHORITY: sections 409.305(g) and 409.413(a), RSMo 2000. Original rule filed June 25, 1968, effective Aug. 1, 1968. For intervening history, please consult the *Code of State Regulations*. Rescinded and readopted: Filed Aug. 30, 2002.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Secretary of State's Office, Doug Ommen, Commissioner of Securities, 600 West Main Street, Jefferson City, MO 65101. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 52—Registration of Securities

PROPOSED AMENDMENT

15 CSR 30-52.340 Mortgage Revenue Bonds. The commissioner of securities is amending section (2) and adding a new section (3).

PURPOSE: This proposed amendment includes the reference and correct citations to the proposed rules and renames the form used pursuant to this regulation.

PURPOSE: This rule specifies the securities registration requirements created by sections 108.450–108.470, RSMo which require certain mortgage revenue bonds to comply with Chapter 409, RSMo. It details the information which issuers must submit and limits the method to registration by qualification. It also provides a new form

[as the registration instrument which will be considered by this office] to be used for this type of registration.

(2) An issuer must submit */F/form SR-5/O/*, Application for Registration of Single Family Mortgage Revenue Bonds, which is hereby adopted and approved for filing with the **Securities /d/Division** (see */F/form SR-5/O/*).

(3) An issuer filing a registration application under this regulation will not need to comply with Missouri regulations 15 CSR 30-52.015 through 15 CSR 30-52.120.

AUTHORITY: sections 409.304 and 409.413, RSMo [1986] 2000. Emergency rule filed Aug. 8, 1980, effective Aug. 18, 1980, expired Dec. 26, 1980. Original rule filed Sept. 11, 1980, effective Dec. 11, 1980. Amended: Filed Aug. 30, 2002.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Secretary of State's Office, Doug Ommen, Commissioner of Securities, 600 West Main Street, Jefferson City, MO 65101. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 52—Registration of Securities

PROPOSED RESCISSION

15 CSR 30-52.350 Seasoned Issuer Registration by Filing. This rule adopted a policy that the securities of issuers whose financial condition meets certain minimum standards and whose equity securities meet standards designed to demonstrate the presence of a public market will be reviewed by the commissioner of securities for only full disclosure.

PURPOSE: The commissioner of securities is proposing to rescind this rule and, if necessary, allow issuers to register these securities under the procedure described in Missouri regulation 15 CSR 30-52.015.

AUTHORITY: section 409.413, RSMo 1986. Original rule filed June 2, 1986, effective Oct. 27, 1986. Rescinded: Filed Aug. 30, 2002.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Secretary of State's Office, Doug Ommen, Commissioner of Securities, 600 West Main Street, Jefferson City, MO 65101. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

This section will contain the final text of the rules proposed by agencies. The order of rulemaking is required to contain a citation to the legal authority upon which the order of rulemaking is based; reference to the date and page or pages where the notice of proposed rulemaking was published in the *Missouri Register*; an explanation of any change between the text of the rule as contained in the notice of proposed rulemaking and the text of the rule as finally adopted, together with the reason for any such change; and the full text of any section or subsection of the rule as adopted which has been changed from that contained in the notice of proposed rulemaking. The effective date of the rule shall be not less than thirty (30) days after the date of publication of the revision to the *Code of State Regulations*.

The agency is also required to make a brief summary of the general nature and extent of comments submitted in support of or opposition to the proposed rule and a concise summary of the testimony presented at the hearing, if any, held in connection with the rulemaking, together with a concise summary of the agency's findings with respect to the merits of any such testimony or comments which are opposed in whole or in part to the proposed rule. The ninety (90)-day period during which an agency shall file its order of rulemaking for publication in the *Missouri Register* begins either: 1) after the hearing on the proposed rulemaking is held; or 2) at the end of the time for submission of comments to the agency. During this period, the agency shall file with the secretary of state the order of rulemaking, either putting the proposed rule into effect, with or without further changes, or withdrawing the proposed rule.

Title 3—DEPARTMENT OF CONSERVATION Division 10—Conservation Commission Chapter 7—Wildlife Code: Hunting: Seasons, Methods, Limits

ORDER OF RULEMAKING

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission amends a rule as follows:

3 CSR 10-7.440 is amended.

This amendment establishes hunting seasons and limits and is excepted by section 536.021, RSMo from the requirement for filing as a proposed amendment.

The Department of Conservation amended 3 CSR 10-7.440 by establishing seasons and limits for hunting migratory waterfowl during the 2002–2003 seasons.

3 CSR 10-7.440 Migratory Game Birds and Waterfowl: Seasons, Limits

PURPOSE: Establishes season dates and bag limits for hunting waterfowl within frameworks established by the U.S. Fish and Wildlife Service for the 2002–2003 seasons and opens the hunting season for white-winged doves.

(1) Migratory game birds and waterfowl may be taken, possessed, transported and stored as provided in federal regulations. The head or one (1) fully feathered wing must remain attached to all waterfowl

while being transported from the field to one's home or a commercial preservation facility. Seasons and limits are as follows:

(A) Mourning doves, Eurasian collared-doves and white-winged doves may be taken from one-half (1/2) hour before sunrise to sunset from September 1 through November 9. Limits: twelve (12) doves daily in the aggregate; twenty-four (24) in possession.

(F) Ducks (except for canvasbacks) and coots may be taken from one-half (1/2) hour before sunrise to sunset from October 26 through December 24 in the North Zone (that portion of Missouri north of a line running west from the Illinois border at Lock and Dam 25; west on Lincoln County Hwy. N to Mo. Hwy. 79; south on Mo. Hwy. 79 to Mo. Hwy. 47; west on Mo. Hwy. 47 to Interstate Hwy. 70; west on Interstate Hwy. 70 to U.S. Hwy. 54; south on U.S. Hwy. 54 to U.S. Hwy 50; and west on U.S. Hwy. 50 to the Kansas border); from November 23 through January 21 in the South Zone (that portion of the state south of a line running west from the Illinois border on Mo. Hwy. 34 to Interstate Hwy. 55; south on Interstate Hwy. 55 to U.S. Hwy. 62; west on U.S. Hwy. 62 to Mo. Hwy. 53; north on Mo. Hwy. 53 to Mo. Hwy. 51; north on Mo. Hwy. 51 to U.S. Hwy. 60; west on U.S. Hwy. 60 to Mo. Hwy. 21; north on Mo. Hwy. 21 to Mo. Hwy. 72; west on Mo. Hwy. 72 to Mo. Hwy. 32; west on Mo. Hwy. 32 to U.S. Hwy. 65; north on U.S. Hwy. 65 to U.S. Hwy. 54; west on U.S. Hwy. 54 to the Kansas border); and from November 2 through December 31 in the Middle Zone (remainder of Missouri). Pintails may be taken from October 26 through November 24 in the North Zone, November 2 through December 1 in the Middle Zone, and November 23 through December 22 in the South Zone. Ducks and coots may be taken by youth hunters less than sixteen (16) years of age from one-half (1/2) hour before sunrise to sunset from October 19 through October 20 in the North Zone, from October 26 through October 27 in the Middle Zone and from November 16 through November 17 in the South Zone. Youth hunters must be accompanied by an adult eighteen (18) years of age or older who cannot hunt ducks. Adults must be licensed unless the youth hunter possesses a valid hunter education certificate card. Limits are as follows:

1. Coots—Fifteen (15) daily; thirty (30) in possession.

2. Ducks—The daily bag limit of ducks is six (6) and may include no more than four (4) mallards (no more than two (2) of which may be a female), three (3) scaup, two (2) wood ducks, one (1) black duck, two (2) redheads, one (1) hooded merganser, and one (1) pintail (during the prescribed season and during the youth hunts). The season on canvasbacks is closed. The possession limit is twelve (12), including no more than eight (8) mallards (no more than four (4) of which may be female), six (6) scaup, four (4) wood ducks, two (2) black ducks, four (4) redheads, two (2) hooded mergansers, and two (2) pintails.

(G) Geese may be taken from one-half (1/2) hour before sunrise to sunset as follows:

1. Blue, snow, and Ross's geese may be taken from October 26 through January 18 in the North Zone and Swan Lake Zone, and from November 2 through January 26 in the Middle Zone, South Zone and Southeast Zone.

2. White-fronted geese may be taken from October 26 through January 18 in the North Zone and Swan Lake Zone, and from November 2 through January 26 in the Middle Zone, Southeast Zone and South Zone.

3. In the Swan Lake Zone, Canada geese and brant may be taken from October 26 through December 1 and from December 21 through January 18.

4. In the Southeast Zone and South Zone, Canada geese and brant may be taken from September 28 through October 6 and from November 23 through January 26.

5. Except in the Swan Lake Zone, Southeast Zone and South Zone, Canada geese and brant may be taken from September 21

through October 6, October 26 through November 24 and December 21 through January 18 in the North Zone and from September 21 through October 6, November 2 through December 1, and December 21 through January 18 in the Middle Zone.

6. The daily bag limit is twenty (20) blue, snow or Ross's geese, two (2) brant and two (2) white-fronted geese statewide. The possession limits for brant and white-fronted geese are four (4) each and there is no possession limit for blue, snow and Ross's geese.

7. The daily bag limit is two (2) Canada geese in the Swan Lake Zone. The possession limit is four (4) Canada geese.

8. In the North Zone and Middle Zone, the daily bag limit is three (3) Canada geese from September 21 through October 6 and two (2) Canada geese thereafter. The possession limit is six (6) Canada geese from September 21 through October 6 and four (4) Canada geese thereafter. In the South Zone and Southeast Zone, the daily bag limit is three (3) Canada geese from September 28 through October 6 and two (2) geese thereafter. The possession limit is six (6) Canada geese from September 28 through October 6 and four (4) Canada geese thereafter.

9. Geese may be taken by youth hunters in the North Zone from October 19 through October 20, in the Middle Zone from October 26 through October 27, and in the South Zone from November 16 through November 17. The daily bag limit is twenty (20) blue, snow, and Ross's geese, two (2) white-fronted geese, two (2) brant, and two (2) Canada geese. The possession limits for brant, white-fronted geese and Canada geese are four (4) each and there is no possession limit for blue, snow, and Ross's geese.

10. Zones: The Swan Lake Zone shall be the area bounded by U.S. Hwy. 36 on the north, Mo. Hwy. 5 on the east, Mo. Hwy. 240 and U.S. Hwy. 65 on the south, and U.S. Hwy. 65 on the west. The North Zone shall be that portion of the state north of a line running west from the Illinois border at Lock and Dam 25; west on Lincoln County Hwy. N to Mo. Hwy. 79; south on Mo. Hwy. 79 to Mo. Hwy. 47; west on Mo. Hwy. 47 to Interstate Hwy. 70; west on Interstate Hwy. 70 to U.S. Hwy. 54; south on U.S. Hwy. 54 to U.S. Hwy. 50; west on U.S. Hwy 50 to the Kansas border excluding the Swan Lake Zone. The South Zone shall be that portion of Missouri south of a line running west from the Illinois border on Mo. Hwy. 34 to Interstate Hwy. 55; south on Interstate Hwy. 55 to U.S. Hwy. 62; west on U.S. Hwy. 62 to Mo. Hwy. 53; north on Mo. Hwy. 53 to Mo. Hwy. 51; north on Mo. Hwy. 51 to U.S. Hwy. 60; west on U.S. Hwy. 60 to Mo. Hwy. 21; north on Mo. Hwy. 21 to Mo. Hwy. 72; west on Mo. Hwy. 72 to Mo. Hwy. 32; west on Mo. Hwy. 32 to U.S. Hwy. 65; north on U.S. Hwy. 65 to U.S. Hwy. 54; west on U.S. Hwy. 54 to the Kansas border. The Middle Zone shall be the remainder of Missouri excluding the Southeast Zone (that portion of the state west of a line beginning at the intersection of Mo. Hwy. 34 and Interstate Hwy. 55, south of Interstate Hwy. 55 to U.S. Hwy. 62; west on U.S. Hwy. 62 to Mo. Hwy. 53; north on Mo. Hwy. 53 to Mo. Hwy. 51; north on Mo. Hwy. 51 to U.S. Hwy. 60; west on U.S. Hwy. 60 to Mo. Hwy. 21; north on Mo. Hwy. 21 to Mo. Hwy. 72; east on Mo. Hwy. 72 to Mo. Hwy. 34; east on Mo. Hwy. 34 to Interstate Hwy. 55).

(I) The hunting season for blue, snow and Ross's geese closes statewide on January 18, 2003 in the North Zone and Swan Lake Zone and on January 26 in the Middle Zone, Southeast Zone and South Zone in order to implement the federal Arctic Tundra Habitat Emergency Conservation Act which became law on November 24, 1999.

1. Persons who possess a valid migratory bird permit may chase, pursue, and take blue, snow and Ross's geese between the hours of one-half (1/2) hour before sunrise to one-half (1/2) hour after sunset from January 19 through April 30, 2003 in the North Zone and Swan Lake Zone and from January 27 through April 30, 2003 in the Middle Zone, Southeast Zone and South Zone. Any other regulation notwithstanding, methods for the taking of blue, snow and Ross's geese include using shotguns capable of holding more than three (3) shells, and with the use or aid of recorded or

electrically amplified bird calls or sounds, or recorded or electrically amplified imitations of bird calls or sounds. Exceptions to the above permit requirement include landowners or lessees, as described in this code, and persons fifteen (15) years of age or younger, provided s/he is in the immediate presence of a properly licensed adult or has in his/her possession a valid hunter education certificate card. A daily bag limit will not be in effect January 19 through April 30 in the North Zone and Swan Lake Zone and from January 27 through April 30 in the Middle Zone, Southeast Zone, and South Zone.

SUMMARY OF COMMENTS: Seasons and limits are excepted from the requirement of filing as a proposed amendment under section 536.021, RSMo.

This amendment filed August 30, 2002, effective **September 10, 2002**.

Title 3—DEPARTMENT OF CONSERVATION Division 10—Conservation Commission

Chapter 9—Wildlife Code: Confined Wildlife: Privileges, Permits, Standards

ORDER OF RULEMAKING

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission amends a rule as follows:

3 CSR 10-9.442 is amended.

This amendment establishes hunting seasons and limits and is excepted by section 536.021, RSMo from the requirement for filing as a proposed amendment.

The Department of Conservation amended 3 CSR 10-9.442 by adjusting the season for waterfowl hunting by falconers in 2002–2003 to conform to federal frameworks.

3 CSR 10-9.442 Falconry

PURPOSE: This amendment adjusts the season dates for hunting waterfowl by falconry for the 2002–2003 season as provided in the frameworks established by the U.S. Fish and Wildlife Service.

(2) Only designated types and numbers of birds of prey may be possessed and all these birds shall bear a numbered, nonreusable marker provided by the department. Birds held under a falconry permit may be used, without further permit, to pursue and take wildlife within the following seasons and bag limits:

(E) Ducks, mergansers and coots may be taken from one-half (1/2) hour before sunrise to sunset as follows: in the North Zone, September 14 through December 29; in the Middle Zone, September 14 through September 22 and December 31; and, in the South Zone, September 14 through September 22 and October 16 through January 21. Daily limit: three (3) birds singly or in the aggregate, including doves; possession limit: six (6) birds singly or in the aggregate, including doves.

SUMMARY OF COMMENTS: Seasons and limits are excepted from the requirement of filing as a proposed amendment under section 536.021, RSMo.

This amendment filed August 30, 2002, effective **September 10, 2002**.

Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 11—Wildlife Code: Special Regulations for Department Areas

ORDER OF RULEMAKING

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission amends a rule as follows:

3 CSR 10-11.150 Target Shooting and Shooting Ranges is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 15, 2002 (27 MoReg 1200). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received during the comment period.

Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 11—Wildlife Code: Special Regulations for Department Areas

ORDER OF RULEMAKING

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission amends a rule as follows:

3 CSR 10-11.182 Deer Hunting is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 15, 2002 (27 MoReg 1200). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received during the comment period.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 150—State Board of Registration for the Healing Arts
Chapter 2—Licensing of Physicians and Surgeons

ORDER OF RULEMAKING

By the authority vested in the State Board of Registration for the Healing Arts under section 334.125, RSMo 2000, the board amends a rule as follows:

4 CSR 150-2.030 Licensing by Reciprocity is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 3, 2002 (27 MoReg 860). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 150—State Board of Registration for the Healing Arts
Chapter 2—Licensing of Physicians and Surgeons

ORDER OF RULEMAKING

By the authority vested in the State Board of Registration for the Healing Arts under section 334.125, RSMo 2000, the board amends a rule as follows:

4 CSR 150-2.040 Application Forms is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 3, 2002 (27 MoReg 860). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 150—State Board of Registration for the Healing Arts
Chapter 2—Licensing of Physicians and Surgeons

ORDER OF RULEMAKING

By the authority vested in the State Board of Registration for the Healing Arts under section 334.125, RSMo 2000, the board amends a rule as follows:

4 CSR 150-2.060 Temporary Licenses is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 3, 2002 (27 MoReg 860-861). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 150—State Board of Registration for the Healing Arts
Chapter 2—Licensing of Physicians and Surgeons

ORDER OF RULEMAKING

By the authority vested in the State Board of Registration for the Healing Arts under section 334.112, RSMo 2000, the board amends a rule as follows:

4 CSR 150-2.155 Limited License is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 3, 2002 (27 MoReg 861). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT**Division 150—State Board of Registration for the Healing Arts****Chapter 4—Licensing of Speech-Language Pathologists and Audiologists****ORDER OF RULEMAKING**

By the authority vested in the State Board of Registration for the Healing Arts under sections 345.015, 345.030, 345.050, 345.055 and 345.065, RSMo 2000, the board amends a rule as follows:

4 CSR 150-4.010 Applications for Licensure is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 3, 2002 (27 MoReg 861). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT**Division 150—State Board of Registration for the Healing Arts****Chapter 4—Licensing of Speech-Language Pathologists and Audiologists****ORDER OF RULEMAKING**

By the authority vested in the State Board of Registration for the Healing Arts under sections 345.015, 345.022, 345.030, 345.045, 345.051 and 345.055, RSMo 2000, the board amends a rule as follows:

4 CSR 150-4.060 Fees is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 3, 2002 (27 MoReg 861–862). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT**Division 150—State Board of Registration for the Healing Arts****Chapter 6—Registration of Athletic Trainers****ORDER OF RULEMAKING**

By the authority vested in the State Board of Registration for the Healing Arts under sections 334.125 and 334.706.3(2), RSMo 2000, the board amends a rule as follows:

4 CSR 150-6.050 Fees is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 3, 2002 (27 MoReg 862). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amend-

ment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT**Division 150—State Board of Registration for the Healing Arts****Chapter 7—Physician Assistants****ORDER OF RULEMAKING**

By the authority vested in the State Board of Registration for the Healing Arts under sections 334.125, 334.735, 334.736, 334.738 and 334.743, RSMo 2000, the board amends a rule as follows:

4 CSR 150-7.200 Fees is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 3, 2002 (27 MoReg 862). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT**Division 150—State Board of Registration for the Healing Arts****Chapter 8—Licensing of Clinical Perfusionists****ORDER OF RULEMAKING**

By the authority vested in the State Board of Registration for the Healing Arts under section 324.159, RSMo 2000, the board amends a rule as follows:

4 CSR 150-8.060 Fees is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 3, 2002 (27 MoReg 862). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT**Division 220—State Board of Pharmacy****Chapter 3—Negative Generic Drug Formulary****ORDER OF RULEMAKING**

By the authority vested in the State Board of Pharmacy under section 338.280, RSMo 2000, the board amends a rule as follows:

4 CSR 220-3.040 Return and Reuse of Drugs and Devices is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on May 15, 2002

(27 MoReg 776-779). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A total of four (4) comments to this proposed amendment were received, all opposed to the amendment.

COMMENTS: The comments addressed the same issues. It was stated that adoption of this amendment would create a financial hardship for the consumer, since they would not be given credit for drugs returned to the pharmacy. The comments also addressed the more lenient return and reuse policies of bordering states, which would create a financial disadvantage for Missouri pharmacies. The comments noted that in addition to the consumer and Missouri pharmacies, the State Medicaid Division would incur more costs since credit could not be given by the Pharmacy for drugs returned and reused. Two comments addressed the issue of heat-sealing drugs stating that the *United States Pharmacopeia (USP)* has studied this issue extensively and has expressed no concern about the viability or integrity of medications that are returned and reused. This commenter suggested that the Board allow pharmacist discretion for return and reuse, according to USP guidelines. One commenter addressed the issue of destruction of drugs dispensed to a patient who has expired, or to a patient where the physician has changed the drug regimen. Under this proposed amendment, these drugs could not be returned to the pharmacy for credit to the patient and his/her estate, and be used for another patient.

RESPONSE: In response to all the comments received the board reiterates its position based on information provided by FDA and also information regarding the status of return and reuse of drugs in other states. The board's mandate is to assure that the citizens of Missouri receive safe and effective pharmaceuticals. The issue at hand is not only the heat-sealing of drugs, but also that there is a wide variety of packaging that is used and there is no way to have a standard, uniform mechanism to assure product integrity when drugs are returned and repackaged repeatedly. In addition, the members of the board understand the financial impact this amendment will have on pharmacies in Missouri, however, the board cannot ignore its legal mandate to protect the citizens of Missouri by assuring that they receive safe and effective pharmaceuticals. The board feels that adoption of this amendment is vital to carry out this mandate, therefore, no changes were made to the original text.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 2—Practice and Procedure**

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under sections 386.230 and 386.410, RSMo 2000, the commission amends a rule as follows:

4 CSR 240-2.075 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on May 1, 2002 (27 MoReg 691). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held on June 10, 2002, and the public comment period ended on May 31, 2002. Six (6) persons offered comments at the public hearing.

COMMENT: Carl Lumley, of Curtis, Oetting, Heinz, Garrett and Soule, P.C., commented, regarding section (7), that the wording needs to be changed because a tariff would not usually set forth facts which could be admitted or denied in a responsive pleading. If the intended reference was to a pleading regarding a tariff, substituting the word "pleading" for "tariff" would eliminate the confusion. In cases that do not involve any pleadings (i.e., perhaps a tariff suspended by the Commission without a motion), the intervention rules already require a statement of support or opposition, and a responsive pleading would not be appropriate. Regarding the estimate of private entity cost, he commented that the requirement of new pleadings will clearly involve aggregate costs in excess of five hundred dollars (\$500), whether in the form of attorney's fees or internal personnel costs.

RESPONSE AND EXPLANATION OF CHANGE: Based on this and other comments made, the commission will withdraw proposed section (7). The commission is persuaded that intervenors, in commission practice, generally lack significant knowledge regarding the issues within thirty (30) days of intervention. consequently, proposed section (7) will either require intervenors at significant cost to quickly develop sufficient knowledge of the case to file a responsive pleading or result in responsive pleadings that simply state that the intervenor lacks sufficient knowledge to take a position. In the former case, many potential intervenors will be deterred from intervening due to the expense involved. In the latter case, parties will bear the cost of an unnecessary and unhelpful pleading. Instead, the commission will, as some commenters suggested, rely upon existing section (2) and prefilled testimony, issues lists and position statements to develop the issues for hearing.

COMMENT: Paul Boudreau, of Brydon, Swearengen & England, P.C., on behalf of several utilities, commented that he generally supports a practice that requires a greater degree of specificity in the positions taken by intervening parties. However, section (7) regarding the requirement that an intervenor file a "responsive pleading" may be problematic in practice. Although it makes some sense in the context of a complaint, it is likely to cause confusion and difficulty in the context of a tariff filing which typically does not contain allegations of facts or law that are conducive to a response. Also, to the extent a responsive pleading is required, the rule should include language to the effect that a party may deny an allegation in those circumstances in which it does not have a basis from which to conclude that it is true or false. This would be consistent with practice before Missouri courts and would also conform to current Commission practice regarding answers to complaints.

RESPONSE AND EXPLANATION OF CHANGE: Based on this and other comments made, the commission will withdraw proposed section (7). The commission is persuaded that intervenors, in commission practice, generally lack significant knowledge regarding the issues within thirty (30) days of intervention. consequently, proposed section (7) will either require intervenors at significant cost to quickly develop sufficient knowledge of the case to file a responsive pleading or result in responsive pleadings that simply state that the intervenor lacks sufficient knowledge to take a position. In the former case, many potential intervenors will be deterred from intervening due to the expense involved. In the latter case, parties will bear the cost of an unnecessary and unhelpful pleading. Instead, the commission will, as some commenters suggested, rely upon existing section (2) and prefilled testimony, issues lists and position statements to develop the issues for hearing.

COMMENT: Michael F. Dandino, of the Office of the Public Counsel, commented that the proposed amendment is unnecessary and should not be adopted. Dandino commented that a responsive pleading is not practical in many cases and is unnecessary in others. He commented that it adds additional procedure and costs for no real benefit. Acting Public Counsel John Coffman offered additional comments at the hearing. He commented that the Commission should

continue its tradition of granting broad intervention. He also commented that the proposed amendment will discourage intervention. Additionally, a responsive pleading is just not workable in many Commission cases.

RESPONSE AND EXPLANATION OF CHANGE: Based on this and other comments made, the commission will withdraw proposed section (7). The commission is persuaded that intervenors, in commission practice, generally lack significant knowledge regarding the issues within thirty (30) days of intervention. Consequently, proposed section (7) will either require intervenors at significant cost to quickly develop sufficient knowledge of the case to file a responsive pleading or result in responsive pleadings that simply state that the intervenor lacks sufficient knowledge to take a position. In the former case, many potential intervenors will be deterred from intervening due to the expense involved. In the latter case, parties will bear the cost of an unnecessary and unhelpful pleading. Instead, the commission will, as some commenters suggested, rely upon existing section (2) and prefilled testimony, issues lists and position statements to develop the issues for hearing.

COMMENT: Gary Duffy, of Brydon, Swearengen & England, P.C., on behalf of Missouri Gas Energy, Laclede Gas Company and The Empire District Electric Company, commented that the proposed section (7) appears to be much more complex and legalistic than is necessary. It appears to have a practical application only in the context of a formal complaint. With respect to applications or tariff filings, if the matter goes to hearing, the Commission will presumably learn of the position of the parties in prepared testimony. The intervenor should at least be allowed to deny allegations based on a lack of information, as is allowed by Civil Rule 55.07. In any event, that burden should apply equally to all parties to the case, not just those granted intervention. Additionally, the reference to "contested case" should be removed because it is inapplicable, confusing, and unnecessary. On the whole, he finds the proposed amendment in section (7) to be troublesome and lacking when it comes to furthering the interests of the efficient administration of justice. He also offered comments at the hearing. He suggested that the proposed amendment might deter intervention by such parties as homeowners. He also suggested that the proposed amendment might serve as a practice trap for counsel unfamiliar with practice before the PSC.

RESPONSE AND EXPLANATION OF CHANGE: Based on this and other comments made, the commission will withdraw proposed section (7). The commission is persuaded that intervenors, in commission practice, generally lack significant knowledge regarding the issues within thirty (30) days of intervention. Consequently, proposed section (7) will either require intervenors at significant cost to quickly develop sufficient knowledge of the case to file a responsive pleading or result in responsive pleadings that simply state that the intervenor lacks sufficient knowledge to take a position. In the former case, many potential intervenors will be deterred from intervening due to the expense involved. In the latter case, parties will bear the cost of an unnecessary and unhelpful pleading. Instead, the commission will, as some commenters suggested, rely upon existing section (2) and prefilled testimony, issues lists and position statements to develop the issues for hearing.

COMMENT: Robert C. Johnson and Lisa Langeneckert, of Blackwell Sanders Peper Martin, commented on behalf of the Missouri Energy Group, including Barnes-Jewish Hospital, Continental Cement Company, Emerson Electric Company, Lone Star Industries Inc., River Cement Company, and SSM HealthCare, that the Commission should reject the proposed amendment because section (7) makes the intervention process more difficult and requires useless paperwork and unnecessary expense for the parties involved in cases. The information in the pleading required by proposed section (7) is duplicative of the information already required under section (2) of this rule. In most cases, it is impossible to take a position on the issues in a case until testimony is filed and discovery is com-

pleted. Section (7) would also serve to deter interested parties from intervening in cases. The public interest would be better served by deleting the proposed section (7) and relying upon the current section (2). Robert C. Johnson also offered comments at the hearing. He commented that the proposed amendment would impose an undue burden on intervenors without significant financial resources.

RESPONSE AND EXPLANATION OF CHANGE: Based on this and other comments made, the commission will withdraw proposed section (7). The commission is persuaded that intervenors, in commission practice, generally lack significant knowledge regarding the issues within thirty (30) days of intervention. Consequently, proposed section (7) will either require intervenors at significant cost to quickly develop sufficient knowledge of the case to file a responsive pleading or result in responsive pleadings that simply state that the intervenor lacks sufficient knowledge to take a position. In the former case, many potential intervenors will be deterred from intervening due to the expense involved. In the latter case, parties will bear the cost of an unnecessary and unhelpful pleading. Instead, the commission will, as some commenters suggested, rely upon existing section (2) and prefilled testimony, issues lists and position statements to develop the issues for hearing.

COMMENT: James Fischer, of Fischer & Dority, P.C., on behalf of Kansas City Power & Light Company, commented that he opposes the proposed addition of section (7) to 4 CSR 240-2.075. He suggests that it is not possible for an intervenor to have sufficient information regarding the subject matter of applications, complaints or tariffs so that it could in good faith either admit or deny "each fact" asserted. In circuit court litigation, parties are able to plead that they have insufficient information to enable them to admit or deny other parties' allegations. It is Fischer's experience, as counsel for an intervenor, that little information is available to intervenors at the beginning of a contested case, and that issues and positions develop as discovery progresses and testimony is filed. Fischer suggests that the addition of section (7) will not aid the Commission and the parties in identifying issues and positions earlier than is done in the current practice. Fischer also offered comments at the hearing. He commented that requiring a responsive pleading from an intervenor is not helpful because the intervenor likely knows nothing about the factual situation. Furthermore, the drafting will result in additional and unnecessary attorney fees to the intervenor.

RESPONSE AND EXPLANATION OF CHANGE: Based on this and other comments made, the commission will withdraw proposed section (7). The commission is persuaded that intervenors, in commission practice, generally lack significant knowledge regarding the issues within thirty (30) days of intervention. Consequently, proposed section (7) will either require intervenors at significant cost to quickly develop sufficient knowledge of the case to file a responsive pleading or result in responsive pleadings that simply state that the intervenor lacks sufficient knowledge to take a position. In the former case, many potential intervenors will be deterred from intervening due to the expense involved. In the latter case, parties will bear the cost of an unnecessary and unhelpful pleading. Instead, the commission will, as some commenters suggested, rely upon existing section (2) and prefilled testimony, issues lists and position statements to develop the issues for hearing.

COMMENT: Stuart W. Conrad, of Finnegan, Conrad & Peterson, made comments at the hearing on behalf of Midwest Gas Users Association, Praxair, and a group of Sedalia industrial utility customers. He commented that requiring a responsive pleading from intervenors was not likely to be helpful in practice. He suggested that the Commission convene a roundtable with members of the utility bar to address procedural changes.

RESPONSE AND EXPLANATION OF CHANGE: Based on this and other comments made, the commission will withdraw proposed section (7). The commission is persuaded that intervenors, in commission practice, generally lack significant knowledge regarding the

issues within thirty (30) days of intervention. Consequently, proposed section (7) will either require intervenors at significant cost to quickly develop sufficient knowledge of the case to file a responsive pleading or result in responsive pleadings that simply state that the intervenor lacks sufficient knowledge to take a position. In the former case, many potential intervenors will be deterred from intervening due to the expense involved. In the latter case, parties will bear the cost of an unnecessary and unhelpful pleading. Instead, the commission will, as some commenters suggested, rely upon existing section (2) and prefilled testimony, issues lists and position statements to develop the issues for hearing. As to the suggestion that the commission convene a roundtable, the commission notes that it solicited written comments and held a public hearing as part of this rulemaking. Consequently, the commission concludes that a roundtable is not necessary at this time.

COMMENT: James Fischer, of Fischer & Dority, P.C., commented at the hearing on behalf of Southwestern Bell Telephone Company. He commented that Southwestern Bell was concerned, with respect to the *amicus* brief issue, that the *amicus* brief ought not be filed after the initial briefs, especially if there is only ten (10) days to respond. The *amicus* brief ought to be filed at the same time as the initial briefs.

RESPONSE AND EXPLANATION OF CHANGE: The commission finds this comment to be helpful and, therefore, will modify proposed section (6) to provide that, absent express leave of the commission, any *amicus* brief must be filed no later than the initial briefs of the parties.

COMMENT: Diana Vuylsteke of Bryan Cave LLP offered comments in opposition to the proposed amendment at the hearing on behalf of the Missouri Industrial Energy Consumers. She commented that the proposed amendment would impose a heavy burden on intervenors to discover information sufficient to permit filing the required responsive pleading. If, on the other hand, the intervenor can simply indicate that it lacks sufficient information, then the responsive pleading is useless. Intervenors generally enter a case to protect their interests, not because they have strong positions at the outset regarding the utility's filings.

RESPONSE AND EXPLANATION OF CHANGE: Based on this and other comments made, the commission will withdraw proposed section (7). The commission is persuaded that intervenors, in commission practice, generally lack significant knowledge regarding the issues within thirty (30) days of intervention. Consequently, proposed section (7) will either require intervenors at significant cost to quickly develop sufficient knowledge of the case to file a responsive pleading or result in responsive pleadings that simply state that the intervenor lacks sufficient knowledge to take a position. In the former case, many potential intervenors will be deterred from intervening due to the expense involved. In the latter case, parties will bear the cost of an unnecessary and unhelpful pleading. Instead, the commission will, as some commenters suggested, rely upon existing section (2) and prefilled testimony, issues lists and position statements to develop the issues for hearing.

No other comments were received.

4 CSR 240-2.075 Intervention

(6) Any person not a party to a case may petition the commission for leave to file a brief as an *amicus curiae*. The petition for leave must state the petitioner's interest in the matter and explain why an *amicus* brief is desirable and how the matters asserted are relevant to the determination of the case. The brief may be submitted simultaneously with the petition. Unless otherwise ordered by the commission, the brief must be filed no later than the initial briefs of the parties. If leave to file a brief as an *amicus curiae* is granted, the brief shall be

deemed filed on the date submitted. An *amicus curiae* may not file a reply brief.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

Division 240—Public Service Commission

Chapter 2—Practice and Procedure

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under sections 386.230 and 386.410, RSMo 2000, the commission amends a rule as follows:

4 CSR 240-2.115 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on May 1, 2002 (27 MoReg 691–692). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held on June 10, 2002, and the public comment period ended on May 31, 2002. Six (6) persons offered comments at the public hearing.

COMMENT: Carl Lumley, of Curtis, Oetting, Heinz, Garrett and Soule, P.C., commented that, regarding subsection (2)(B), the seven (7)-day time period is too short for a situation in which a default waiver of hearing rights can result. At least ten (10) days should be allowed, given the potential consequences.

RESPONSE: Seven (7) days is the time period permitted by existing Rule 4 CSR 240-2.115(3). Most commenters spoke favorably of the existing rule. Therefore, the commission concludes that seven (7) days is a sufficient interval. No changes have been made to the proposed amendment as a result of this comment.

COMMENT: Paul Boudreau and Gary Duffy, of Brydon, Swarengen & England, P.C., on behalf of several utilities, commented that they are opposed to the second sentence of proposed subsection (1)(A) because the language proposed by the Commission will have the unintended effect of discouraging the settlement of cases, particularly of rate cases. They commented that the Commission need only require that the recommendation of the parties be supported by the record evidence. If the Commission's new rule is intended to require the parties to submit a stipulation of basic facts as to every cost and revenue element which results in a particular revenue requirement recommendation, then very few, if any, rate case settlements will be attainable in the future. This will have the adverse effect of unnecessarily forcing more cases to a full-blown evidentiary hearing than would otherwise be the case. They commented that there is no requirement in a settled case that the Commission make detailed findings of fact. They are also opposed to subsection (2)(B) which contains language addressing a so-called "conditional assent." This language is troubling to the extent that it suggests that a nonsignatory will be deemed by the Commission to have assented to or joined in the specific terms of a particular settlement agreement. This difficulty is aggravated by the following subsection (2)(C) that provides that the Commission may treat a nonunanimous stipulation and agreement as a unanimous stipulation and agreement if no objection is filed. The underlying problem is that a nonsignatory party should not be deemed to take a particular position on the merits of a proposed settlement. To the contrary, it should be allowed to simply step aside so as not to impede a settlement without being deemed to have joined in the terms of a document to which it is not a signatory. Consequently, they suggest the last sentence in

subsection (2)(B) be stricken from the proposed amendment. Should the Commission choose to retain subsection (2)(B), then subsection (2)(C) should be deleted and rewritten as follows: "If no party timely objects to a non-unanimous stipulation and agreement, the commission may rule summarily on the merits of the non-unanimous stipulation and agreement without the necessity of holding a hearing." Mr. Duffy also offered comments at the hearing. He commented that the Commission ought to accept the settlements reached by the parties at face value and not try to look behind them.

RESPONSE AND EXPLANATION OF CHANGE: Based on this and other comments, the commission is persuaded to withdraw the second sentence of proposed subsection (1)(A), particularly because the commission need not make findings of fact in an order approving a stipulation and agreement. As the commenters suggested, the commission will use the device of an on-the-record presentation when it is necessary to acquire additional information regarding a proposed stipulation and agreement. Based on this and other comments, the commission is persuaded to withdraw the third sentence of proposed subsection (2)(B), relating to "conditional assents" because the proposed language is confusing and unnecessary. Proposed subsection (2)(C) reflects the second sentence of section (1) of the existing rule, except that the word "objection" is used in place of "request for hearing." Most commenters spoke favorably of the existing rule; therefore, the commission will make no change to proposed subsection (2)(C) of the amendment. However, as suggested by several commenters, the commission will add language to proposed subsection (2)(E) stating that a party may choose to not oppose all or any part of a nonunanimous stipulation and agreement because this option reflects long-standing practice before the commission. This permits a party to make unmistakably clear that it has not joined in a nonunanimous stipulation and agreement.

COMMENT: Michael F. Dandino, of the Office of the Public Counsel, commented that Public Counsel opposes this proposed amendment and urges the Commission to continue the existing rule without amendment. Public Counsel comments that the amendment does not guarantee a hearing upon request by a nonsignatory party, thereby violating the constitutional and statutory rights of such parties. Public Counsel opposes the provision regarding conditional assents as it transforms such conditional assents into unconditional assents. Public Counsel also opposes the provisions of subsection (1)(A) of the proposed amendment that requires a stipulated set of facts sufficient to support the resolution proposed by the parties. Public Counsel sees this proposed amendment as discouraging settlement. Public Counsel also opposes subsection (2)(E) because it deprives a party of the right to develop evidence on cross-examination or at hearing. There is no rule or requirement for a party to pre-file prepared testimony as a condition for the participation in the hearing or for the ability to brief or otherwise take a position in the case. There is no PSC procedural rule that a party must file a "position statement" or similar pleading in which it must take a firm position on each and every issue before all the evidence is adduced at hearing. A party has a right to file a brief on any or all of the issues contested in the case. Subsection (2)(D) also deprives the parties of the right to set the terms of their agreement. Under this subsection, the nonunanimous stipulation seems to be converted into a binding agreement and a *de facto* statement of position even if it is objected to and perhaps even if the issue or case goes to hearing. In summary, Public Counsel comments that the existing rule complies with the *Fischer* case and has served the public, the parties, and the Commission well has since its adoption. The proposed amendment is unreasonable and unnecessary and should be rejected. John Coffman, Acting Public Counsel, offered additional comments on the proposed amendment at the hearing. Coffman commented that several aspects of the proposed amendment appeared to violate the *Fischer* decision. Additionally, Coffman commented that the proposed amendment would act to make settlements less likely.

RESPONSE AND EXPLANATION OF CHANGE: See the response to the second comment, above. The commission is persuaded by this and other comments to clarify the compliance of the proposed amendment to the decision of the Missouri Court of Appeals, *State ex rel. Fischer v. PSC*, 645 SW.2d 39 (Mo. App. 1982). Therefore, the commission has added language to proposed subsection (2)(D) to indicate that the merits of a case remain for determination after hearing upon the filing of a timely objection to a nonunanimous stipulation and agreement. Additionally, the commission is persuaded by this and other comments to withdraw the proposed subsection (2)(E).

COMMENT: Anthony K. Conroy offered comments on behalf of Southwestern Bell Telephone Company. Southwestern Bell supports the Commission's proposed amendments to subsections (A) and (B) of section (1) of rule 2.115, which apply generally to "Stipulations and Agreements." Southwestern Bell also supports many of the Commission's proposed amendments to section (2) of rule 2.115, entitled "Nonunanimous Stipulations and Agreements." Southwestern Bell supports the Commission's proposed amendments to subsections (A), (C) and (D) of section (2) of the rule. Southwestern Bell also supports the Commission's proposed amendments to subsection (B) of section (2) of the rule, with the exception of the final sentence of that subsection, as proposed by the Commission, which provides "[A] conditional assent to a nonunanimous stipulation and agreement shall be regarded as a non-conditional assent and not as an objection." Southwestern Bell does not believe it is appropriate for the Commission, by rule, to permit a party to file a "conditional assent" and then relabel this pleading an "unconditional assent." In addition to being confusing, the Commission's proposed amendment will likely lead to parties stating all of their positions with respect to a stipulation and agreement in the form of objections, resulting in the need for more hearings, not less. Southwestern Bell also opposes the Commission's proposed subsection (E) of section (2) of rule 2.115. Southwestern Bell is concerned that this proposed amendment has the potential to deprive parties to a particular case of their right to due process and a fair hearing. Stipulations and agreements may be filed before parties file testimony or finalize their position in a case. A party to a case should not be foreclosed from objecting to a stipulation and agreement simply because the stipulation and agreement "resolves only issues as to which a party has stated no position and filed no testimony." If a party has sought and been granted intervention as a party in a particular case, the Commission's rules should not provide that an objection to a stipulation and agreement filed by other parties "shall have no effect." The amendment of section (2) of rule 2.115, to include subsection (E) as proposed by the Commission should be withdrawn.

RESPONSE AND EXPLANATION OF CHANGE: Based on this and other comments, the commission is persuaded to withdraw the third sentence of proposed subsection (2)(B), relating to "conditional assents" because the proposed language is confusing and unnecessary. Additionally, the commission is persuaded by this and other comments to withdraw the proposed subsection (2)(E).

COMMENT: Jason L. Ross, of Greensfelder, Hemker & Gale, P.C., provided comments on behalf of Fidelity Communication Services I, Inc., Fidelity Communication Services II, Inc., Fidelity Communication Services III, Inc., and Fidelity Cablevision, Inc. Ross commented that, in particular, the Fidelity CLECs oppose subsections (2)(B), (C) and (E) of the proposed amendment on the grounds that these provisions may violate the due process rights of a party that is not a signatory to a "nonunanimous" stipulation and agreement; may discourage interested parties from intervening in cases that may affect their interests; and appear to effectively eliminate a party's ability to agree "not to oppose" a stipulation and agreement, and seemingly force the party to either join as a signatory in support of the stipulation or file an objection to said stipulation.

While the Fidelity CLECs do not necessarily take issue with the notion that a failure to timely object constitutes a waiver — although seven (7) days is a very short period — they are concerned that a failure to timely object may be viewed, procedurally, as consent to the resolution of the stipulated issues or to the validity of the statement of the stipulated facts. While the Fidelity CLECs make every effort to comply with the Commission's filing requirements, and appreciate the Commission's need and desire to expeditiously move cases forward on the docket, they maintain that eliminating the mechanism by which a party can participate only with respect to those issues that are of importance to it, and agree not to oppose the resolution of the remainder, constitutes a denial of due process, by forcing a procedural presumption — namely that the stipulation is unanimous — that may adversely affect the party in future cases. The Fidelity CLECs request that the Commission preserve some procedural mechanism, i.e., the ability to agree not to oppose certain stipulated facts or resolved issues, where a party, although bound by the decision in the case, is not forced or deemed to take a position either way on every issue. To hold otherwise may discourage parties from intervening and participating in cases. The wording of subsection (2)(E) also seems to ignore the fact that stipulations and agreements are often the product of informal negotiations between the parties, reached prior to any formal statement of position or filing of testimony in the record. Accordingly, the Fidelity CLECs request that, should the Commission reject the suggestions stated above, that subsection (2)(E) be clarified to apply only where position statements or testimony could have been filed in the case under the procedural schedule. Otherwise, a party may be "steamrolled" early in a case before it has had the opportunity to conduct discovery or otherwise thoroughly investigate the issues. Finally, the Fidelity CLECs also have concerns about the meaning of the terms "conditional assent" (used in subsection (2)(C)) and "stipulation and agreement," as such terms are apparently not defined in the proposed amendment or otherwise in the *Code of State Regulations*. For example, must a stipulation and agreement be captioned as such when filed with the Commission to be considered a "stipulation and agreement?" Also, would a provision in a stipulation and agreement that conditions the agreement on the acceptance by the Commission of all terms contained therein be considered "conditional assent?"

RESPONSE AND EXPLANATION OF CHANGE: See the responses to the comments above. Based on this and other comments, the commission is persuaded to withdraw the third sentence of proposed subsection (2)(B), relating to "conditional assents" because the proposed language is confusing and unnecessary. Additionally, the commission is persuaded by this and other comments to withdraw the original proposed language of subsection (2)(E) and to substitute language that permits a party to neither join nor object to a nonunanimous stipulation and agreement, but to simply not oppose it.

COMMENT: Robert C. Johnson and Lisa Langeneckert, of Blackwell Sanders Peper Martin, commented on behalf of the Missouri Energy Group, including Barnes-Jewish Hospital, Continental Cement Company, Emerson Electric Company, Lone Star Industries Inc., River Cement Company, and SSM HealthCare, that the Commission should continue the existing rule 2.115, and each of its sections, without modification. They commented that this proposed amendment appears to remove a party's right to be heard if it objects to the proposed stipulation. *State ex rel. Fischer v. PSC*, 645 SW.2d 39 (Mo. App. 1982), sets out the rights of parties to a case when a nonunanimous stipulation is filed, including the right to a full and fair hearing on the issues. While subsection (2)(B) of this proposed amendment allows a party to object to a proposed stipulation, the portion of the statute requiring a requested hearing is removed. The proposed amendment is silent relating to the granting of a hearing to a party objecting to a proposed stipulation and does not explain the meaning or effect of an objection. Removing a party's right to a hearing would also deny a party's right to cross-examination guaranteed under section 536.070, RSMo. Subsection (2)(E)

requires a party to have stated a position and filed testimony on a particular issue in order to object to that issue in a nonunanimous stipulation. This deprives a party of the right to develop evidence on cross-examination. Section 384.420.1, RSMo, allows parties to introduce evidence without the requirement of prefilled testimony as a condition of participation. In addition, if a stipulation is entered into before testimony is filed, this would disallow any party not agreeing to the stipulation the right to object. Under section 536.080.1, RSMo, all parties have the right to present oral argument or file a brief and this rule would contradict that right by not allowing a party to object to a stipulation on an issue in which it had not previously filed a position or testimony. Subsection (2)(D) of this proposed amendment appears to convert a nonunanimous stipulation into a binding agreement if a nonsignatory objects to the stipulation. In many cases, a signatory's acquiescence to a stipulation is predicated on the understanding that all of the provisions of the stipulation will be accepted as a whole. A party to a stipulation may be willing to agree to certain provisions of a stipulation that would otherwise be unacceptable in order to have the whole agreement. If the stipulation is not accepted as a whole, the parties' positions may differ greatly from that which was filed in the stipulation. Parties should have the right to negotiate and agree as to what effect an objection or hearing has on their continued agreement with the stipulation. A party should continue to have the right to change its position on the separate issues if a hearing is held. Robert C. Johnson also offered comments at the hearing. He commented that the use of nonunanimous stipulations and agreements amounts to a denial of due process of law.

RESPONSE AND EXPLANATION OF CHANGE: See the responses to the comments above. With modifications based on the comments received, the commission concludes that the proposed amendment is superior to the existing rule. Therefore, the commission will adopt it. Based on this and other comments, the commission has added language to proposed subsection (2)(D) that permits a signatory party to repudiate a nonunanimous stipulation and agreement to which another party has objected.

COMMENT: Stuart W. Conrad, of Finnegan, Conrad & Peterson, made comments at the hearing on behalf of Midwest Gas Users Association, Praxair, and a group of Sedalia industrial utility customers. He commented that requiring a stipulation to contain stipulated facts sufficient to support the stipulated outcome was not likely to be workable in practice. He suggested that the Commission use on-the-record presentations when it desires to inquire into a stipulation and agreement. He further commented that the rule should preserve the right of any party to request a hearing. He further commented that the response period allowed of seven (7) days was insufficient. Conrad also commented that the rule should preserve the right to conditionally assent to a stipulation and agreement. He further commented that he did not believe the proposed amendment complies with the *Fischer* decision. He suggested that the commission convene a roundtable with members of the utility bar to address procedural changes.

RESPONSE: See the responses to the comments above. For the most part, the commission has made changes to accomplish these suggestions and to make clear the adherence of the amended rule to the *Fischer* decision. As explained above, the commission does not believe that a roundtable is necessary at this time. Likewise, as explained above, the commission concludes that the seven (7)-day interval is acceptable.

COMMENT: James Fischer of Fischer & Dority, P.C., offered comments at the hearing. He commented that the proposed amendment should include a statement that a hearing will be held upon request.

RESPONSE AND EXPLANATION OF CHANGE: See the response to the comments above. The commission has added language to proposed subsection (2)(D) intended to accomplish this.

COMMENT: Diana Vuylsteke of Bryan Cave LLP offered comments in opposition to the proposed amendment at the hearing on behalf of the Missouri Industrial Energy Consumers. She commented that an on-the-record presentation is the appropriate vehicle by which the Commission may determine whether a settlement is in the public interest.

RESPONSE: See the responses to the comments above. The commission has adopted the suggestion about the use of on-the-record presentations, although this is not reflected in the text of the proposed amendment.

No other comments were received.

4 CSR 240-2.115 Stipulations and Agreements

(1) Stipulations and Agreements.

(A) The parties may at any time file a stipulation and agreement as a proposed resolution of all or any part of a contested case. A stipulation and agreement shall be filed as a pleading.

(B) The commission may resolve all or any part of a contested case on the basis of a stipulation and agreement.

(2) Nonunanimous Stipulations and Agreements.

(A) A nonunanimous stipulation and agreement is any stipulation and agreement which is entered into by fewer than all of the parties.

(B) Each party shall have seven (7) days from the filing of a nonunanimous stipulation and agreement to file an objection to the nonunanimous stipulation and agreement. Failure to file a timely objection shall constitute a full waiver of that party's right to a hearing.

(C) If no party timely objects to a nonunanimous stipulation and agreement, the commission may treat the nonunanimous stipulation and agreement as a unanimous stipulation and agreement.

(D) A nonunanimous stipulation and agreement to which a timely objection has been filed shall be considered to be merely a position of the signatory parties to the stipulated position, except that no party shall be bound by it. All issues shall remain for determination after hearing.

(E) A party may indicate that it does not oppose all or part of a nonunanimous stipulation and agreement.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

Division 240—Public Service Commission

Chapter 2—Practice and Procedure

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under sections 386.230 and 386.410, RSMo 2000, the commission adopts a rule as follows:

4 CSR 240-2.117 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on May 1, 2002 (27 MoReg 692). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed rule was held on June 10, 2002, and the public comment period ended on May 31, 2002. Six (6) persons offered comments at the public hearing.

COMMENT: Carl Lumley, of Curtis, Oetting, Heinz, Garrett and Soule, P.C., commented, regarding subsection (1)(C), that the responding party should be allowed thirty (30) days to respond, just

as in circuit court proceedings. The filing party has a substantial advantage, in that they can take as long as they want to prepare their filing and the evidence on which it is based. Ten (10) days is much too short a time for responding parties to go through the logistics of assembling opposing evidence and preparing what can be substantial responsive pleadings. The circuit court rules are well-established and time-tested. The Commission would not be well served by an abbreviated ten (10)-day response time.

RESPONSE AND EXPLANATION OF CHANGE: The commission is persuaded by this and other comments that the response interval should be increased to thirty (30) days.

COMMENT: Paul Boudreau and Gary Duffy, of Brydon, Swearengen & England, P.C., on behalf of several utilities, commented that, while they generally support the Commission's proposed rule with respect to summary determinations, a longer period should be allowed within which to respond to a motion than the ten (10) days permitted by subsection (1)(C) of the proposed rule. They suggest that perhaps a fifteen (15)-thirty (30)-day time period would provide the non-moving party a more reasonable opportunity to locate or generate the necessary evidentiary support to respond to a dispositive motion. A somewhat longer period of time would be in line with Missouri Civil Rule 74.04(c)(2) that provides thirty (30) days to respond unless a longer period is needed for discovery. They also suggest that the phrase "contested case" not be used as many Commission cases, in their view, are not "contested cases" within the meaning of Chapter 536, RSMo. Mr. Duffy also offered comments at the hearing. He commented that summary disposition should not be available in any case with an operation of law date. He also commented that a non-moving party would require at least thirty (30) days to respond to a motion for summary determination.

RESPONSE AND EXPLANATION OF CHANGE: The commission is persuaded by this and other comments to extend the response interval to thirty (30) days. The commission is also persuaded by this and other comments to remove references to "contested cases." Such references are not necessary and may be confusing. The commission will also remove the reference to contested cases from the title of the rule. The commission is also persuaded by this and other comments to provide that summary determination shall not be available in rate cases or in other cases with operation of law dates.

COMMENT: Michael Dandino offered comments on behalf of the Office of the Public Counsel. Public Counsel opposes this proposed rule in its present form. The ten (10)-day period of time is unreasonable given the nature of the cases and complexity of the issues. By timing the filing of the motion, the utility can use the rule as a tactical weapon to overwhelm the opposition and limit the ability of the other parties to be heard. It shifts the burden of proof from the company to Public Counsel, Staff, and other parties to come forward with evidence on a very short time frame to demonstrate factual disputes. The proposed rule does not give a non-moving party a right to discovery, but rather requires a non-moving party to show good cause to delay the response to the motion for summary judgment and conduct discovery. The PSC must allow reasonable time for discovery for non-moving parties. Public Counsel suggests that if the Commission adopts a summary judgment rule that it exclude rate making and tariff filings or any changes in rates from the scope of the rule. This summary motion practice for most of the cases before this Commission works an unreasonable hardship on the ratepayers and is a fundamentally unfair and oppressive procedure. Public Counsel is concerned that this proposed rule will lead to an attempt to deprive ratepayers of its rights to full and fair hearings. Public Counsel also suggests that summary judgment be limited to a few purposes where a preliminary legal issue should be resolved prior to further action. It could be used to determine the legal scope of a proceeding or even if a proceeding is proper as a matter of law. Acting Public Counsel John Coffman offered additional comments at the hearing. Coffman commented that the Commission should avoid

adopting a summary determination rule that would tilt the balance against parties with fewer resources. In particular, Coffman commented that the time limit for responses is too short.

RESPONSE AND EXPLANATION OF CHANGE: The commission is persuaded by this and other comments to extend the response interval to thirty (30) days. The commission is also persuaded by this and other comments to provide that summary determination shall not be available in rate cases or in other cases with operation of law dates. The commission will make a similar change to proposed section (2). The commission is persuaded by this and other comments that this procedure might be subverted and used as a litigation tactic is meritorious. Therefore, in order to prevent the use of this procedure as a tactic to deprive parties such as the Public Counsel from an opportunity to contest utility initiatives through litigation, the commission will modify proposed subsection (1)(E) to provide that the commission "may grant the motion for summary determination if . . . the commission determines that it is in the public interest." This will permit non-moving parties to argue to the commission that summary determination is, for some reason, not appropriate in the case at bar. This option will also reduce the burden on non-moving parties to discover evidence by which to show the existence of a genuine dispute of material fact. The commission acknowledges that many commission cases are driven by public policy disputes rather than by factual disputes. The proposed rule, as modified, will permit non-moving parties to avoid summary determination in proper cases by showing the existence of such public policy disputes. The commission will make a similar change to section (2).

COMMENT: Southwestern Bell supports the adoption of a new Commission rule which would provide for the summary disposition of contested cases upon the motion of a party, where the "pleadings, testimony, discovery, affidavits, and memoranda on file show that there is no genuine issue as to any material fact," and where the moving party is "entitled to relief as a matter of law as to all or any part of the contested case." However, Southwestern Bell opposes the adoption of the second sentence of subsection (1)(E), which permits the Commission to order summary determination against the moving party. Bell believes that, if the Commission determines that a party filing a motion for summary determination fails to establish that such relief is appropriate, the Commission should simply deny the motion. Neither the Federal Rules of Civil Procedure nor the Missouri Rules of Civil Procedure, upon which the Commission's proposed summary determination rule appears to be directly based, include such a provision. Southwestern Bell also responded to the comments offered by the Public Counsel, commenting that it does not believe it would be appropriate to drastically limit the applicability of any summary disposition rule. If the Commission adopts a summary disposition rule for contested Commission cases, a motion for summary determination should be available to resolve all or any part of any case in which the motion, along with the supporting materials, establishes that "there is no genuine issue as to any material fact and that the moving party is therefore entitled to relief as a matter of law as to all or any part of the contested case." Public Counsel's concerns regarding sufficient time to conduct discovery prior to responding to a motion for summary determination in more complex cases are already addressed in subsection (1)(D) of the Commission's proposed rule. In an appropriate case, the Commission can permit a party additional time to respond to a motion for summary determination if further discovery is necessary and has not yet been completed. James Fischer, of Fischer & Dority, P.C., offered comments on behalf of Southwestern Bell at the hearing. Fischer commented that Bell was opposed to the provision that authorizes summary determination against the moving party.

RESPONSE AND EXPLANATION OF CHANGE: The commission is persuaded by this and other comments to delete the second sentence of proposed subsection (1)(E), which authorized summary determination against the moving party. The Missouri civil rules have been modified to exclude summary judgment against the moving

party and this modification will permit the commission's rule to more closely track the civil rules. As explained above, the commission has decided to exclude rate making cases and cases with operation of law dates from the scope of this rule.

COMMENT: Lisa Creighton Hendricks offered comments on behalf of Sprint Communications Company, L.P. and Sprint Missouri, Inc. While Sprint agrees that this Commission should have a rule that allows summary dispositions of cases, Sprint cautions the Commission to not set the time period in which a party replies to motions for summary determinations so short that it puts the party defending the motion for summary determination in a position that they are unable to completely respond. Therefore, Sprint suggests to this Commission that it extend the ten (10)-day period to a twenty (20)-day period and allow an additional three (3) days if a party selects to serve by mail.

RESPONSE AND EXPLANATION OF CHANGE: As explained above, the commission is persuaded by this and other comments to extend the response interval to thirty (30) days.

COMMENT: Robert C. Johnson and Lisa Langeneckert, of Blackwell Sanders Peper Martin, commented on behalf of the Missouri Energy Group, including Barnes-Jewish Hospital, Continental Cement Company, Emerson Electric Company, Lone Star Industries Inc., River Cement Company, and SSM HealthCare, that they oppose this proposed rule in its present form as it places an undue burden on the parties, requiring them to file a response in opposition to a motion for summary determination within ten (10) days. The proposed rule could arguably shift the burden of the case to the respondent, requiring it to disprove the case, rather than requiring the moving party to prove its case. Adoption of this proposed rule could deprive a party of its right of a full and fair hearing on the issues as required by *State ex rel. Fischer v. PSC*, 645 SW.2d 39 (Mo. App. 1982). While a motion for summary determination may be appropriate in civil litigation, it is not appropriate in administrative proceedings. The use of stipulations better serves this purpose. Robert C. Johnson also offered comments at the hearing. He commented that, while summary disposition might be useful and appropriate in nuisance complaints brought against utilities, the device would not be appropriate in most Commission cases.

RESPONSE AND EXPLANATION OF CHANGE: As explained above, the commission is persuaded by this and other comments to extend the response interval to thirty (30) days. The commission has concluded that an appropriately-drafted rule providing for summary disposition of cases has a useful role to play in commission practice.

COMMENT: James Fischer, of Fischer & Dority, P.C., on behalf of Kansas City Power & Light Company, commented that proposed rule 4 CSR 240-2.117(1) appears to be somewhat patterned after motions for summary judgment in civil courts. He suggests that, if this rule is adopted, it should provide that the Commission's scheduling order in contested cases set a specific date by which motions for disposition be filed, which shall not be less than sixty (60) days prior to the evidentiary hearing, with responding parties being allowed twenty (20) days to respond. Allowing parties to file motions for disposition up to twenty (20) days before the hearing, as the proposed rule provides, places an undue burden on the responding parties, as they must continue to prepare for hearing and at the same time respond to the motion. Further, all parties would be required to prepare for hearing without knowing what issues would be allowed at hearing until very shortly before, or even at, the hearing. Fischer suggests that proposed rule 4 CSR 240-2.117(2) not be adopted in light of proposed rule 4 CSR 240-2.117(1), which provides for a process by which parties may by motion seek disposition of all or part of a contested case after a responsive pleading is filed or after the close of the intervention period. 4 CSR 240-2.117(2) is at best duplicative, and at worst injects ambiguity regarding the interplay of that paragraph with 4 CSR 240-2.117(1). Mr. Fischer also offered comments at the hearing. Mr.

Fischer commented that the proposed rule should also require that any motion for summary disposition be filed no later than sixty (60) days before the hearing.

RESPONSE AND EXPLANATION OF CHANGE: As explained above, the commission is persuaded by this and other comments to extend the response interval to thirty (30) days. The commission is also persuaded by this comment to require that motions for summary disposition be filed not later than sixty (60) days before the hearing. The commission believes that proposed section (2) does have a useful role to play in commission proceedings. In particular, it relieves the moving party in appropriate cases from the greater effort of preparing a motion for summary determination, which must be supported by an offer of proof and by a memorandum of law. This, in turn, will spare parties the burden of additional legal fees. Therefore, the commission will adopt proposed section (2).

COMMENT: Stuart W. Conrad, of Finnegan, Conrad & Peterson, made comments at the hearing on behalf of Midwest Gas Users Association, Praxair, and a group of Sedalia industrial utility customers. He commented that the proposed rule should not be promulgated because it is susceptible to manipulation by utilities. Conrad commented that, in utility practice, the utility has possession of all of the relevant facts and other parties must acquire those facts from the utility. In such an environment, a procedure for summary disposition is inappropriate. He suggested that Alternative Dispute Resolution be used to dispose of cases in which no actual dispute exists. He suggested that the Commission convene a roundtable with members of the utility bar to address procedural changes.

RESPONSE AND EXPLANATION OF CHANGE: As explained above, the commission is persuaded by this and other comments to modify the proposed rule in order to prevent the use of this procedure as a tactic to deprive parties of an opportunity to contest utility initiatives through litigation. Therefore, the commission will modify proposed subsection (1)(E) to provide that the commission "may grant the motion for summary determination if . . . the commission determines that it is in the public interest." This will permit non-moving parties to argue to the commission that summary determination is, for some reason, not appropriate in the case at bar. This option will also reduce the burden on non-moving parties to discover evidence by which to show the existence of a genuine dispute of material fact. The commission acknowledges that many commission cases are driven by public policy disputes rather than by factual disputes. The proposed rule, as modified, will permit non-moving parties to avoid summary determination in proper cases by showing the existence of such public policy disputes. The commission will make a similar change to section (2). The commission already employs Alternative Dispute Resolution methods where appropriate and will continue to do so. Nonetheless, the proposed rule will play a useful role in commission practice that is not addressed by Alternative Dispute Resolution methods. The commission has held a public hearing and solicited written comments in this case. Consequently, the commission concludes that there is no need for a roundtable with members of the utility bar.

COMMENT: Diana Vuylsteke of Bryan Cave LLP offered comments in opposition to the proposed rule at the hearing on behalf of the Missouri Industrial Energy Consumers. She joined in the comments by the Public Counsel, that the proposed rule could serve as a dangerous weapon for the utilities.

RESPONSE AND EXPLANATION OF CHANGE: As explained above, the commission is persuaded by this and other comments to modify the proposed rule in order to prevent the use of this procedure as a tactic to deprive parties of an opportunity to contest utility initiatives through litigation. Therefore, the commission will modify proposed subsection (1)(E) to provide that the commission "may grant the motion for summary determination if . . . the commission determines that it is in the public interest." This will permit non-moving parties to argue to the commission that summary determina-

tion is, for some reason, not appropriate in the case at bar. This option will also reduce the burden on non-moving parties to discover evidence by which to show the existence of a genuine dispute of material fact. The commission acknowledges that many commission cases are driven by public policy disputes rather than by factual disputes. The proposed rule, as modified, will permit non-moving parties to avoid summary determination in proper cases by showing the existence of such public policy disputes. The commission will make a similar change to section (2).

No other comments were received.

4 CSR 240-2.117 Summary Disposition

(1) Summary Determination.

(A) Except in a case seeking a rate increase or which is subject to an operation of law date, any party may by motion, with or without supporting affidavits, seek disposition of all or any part of a case by summary determination at any time after the filing of a responsive pleading, if there is a respondent, or at any time after the close of the intervention period. However, a motion for summary determination shall not be filed less than sixty (60) days prior to the hearing except by leave of the commission.

(B) Motions for summary determination shall state with particularity in separately numbered paragraphs each material fact as to which the movant claims there is no genuine issue, with specific references to the pleadings, testimony, discovery, or affidavits that demonstrate the lack of a genuine issue as to such facts. Each motion for summary determination shall have attached thereto a separate legal memorandum explaining why summary determination should be granted and testimony, discovery or affidavits not previously filed that are relied on in the motion. The movant shall serve the motion for summary determination upon all other parties not later than the date upon which the motion is filed with the commission.

(C) Not more than thirty (30) days after a motion for summary determination is served, any party may file and serve on all parties a response in opposition to the motion for summary determination. Attached thereto shall be any testimony, discovery or affidavits not previously filed that are relied on in the response. The response shall admit or deny each of movant's factual statements in numbered paragraphs corresponding to the numbered paragraphs in the motion for summary determination, shall state the reason for each denial, shall set out each additional material fact that remains in dispute, and shall support each factual assertion with specific references to the pleadings, testimony, discovery, or affidavits. The response may also have attached thereto a legal memorandum explaining why summary determination should not be granted.

(D) For good cause shown, the commission may continue the motion for summary determination for a reasonable time to allow an opposing party to conduct such discovery as is necessary to permit a response to the motion for summary determination.

(E) The commission may grant the motion for summary determination if the pleadings, testimony, discovery, affidavits, and memoranda on file show that there is no genuine issue as to any material fact, that any party is entitled to relief as a matter of law as to all or any part of the case, and the commission determines that it is in the public interest. An order granting summary determination shall include findings of fact and conclusions of law.

(F) If the commission grants a motion for summary determination, but does not dispose thereby of the entire case, it shall hold an evidentiary hearing to resolve the remaining issues. Those facts found in the order granting partial summary determination shall be established for purposes of the hearing.

(G) The commission may hear oral argument on a motion for summary determination.

(2) **Determination on the Pleadings**—Except in a case seeking a rate increase or which is subject to an operation of law date, the

commission may, on its own motion or on the motion of any party, dispose of all or any part of a case on the pleadings whenever such disposition is not otherwise contrary to law or contrary to the public interest.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 255—Missouri Board for Respiratory Care
Chapter 2—Licensure Requirements

ORDER OF RULEMAKING

By the authority vested in the Missouri Board for Respiratory Care under sections 334.800, 334.840.2, 334.850, 334.910 and 334.920, RSMo 2000 and 334.880.1, RSMo Supp. 2001, the board amends a rule as follows:

4 CSR 255-2.050 Inactive Status is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on May 15, 2002 (27 MoReg 780). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 255—Missouri Board for Respiratory Care
Chapter 2—Licensure Requirements

ORDER OF RULEMAKING

By the authority vested in the Missouri Board for Respiratory Care under sections 334.800, 334.840.2, 334.850 and 334.920, RSMo 2000 and 334.870 and 334.880.2, RSMo Supp. 2001, the board amends a rule as follows:

4 CSR 255-2.060 Reinstatement is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on May 15, 2002 (27 MoReg 780). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 5—DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION
Division 50—Division of School Improvement
Chapter 340—School Improvement and Accreditation

ORDER OF RULEMAKING

By the authority vested in the State Board of Education under sections 160.538 and 161.092, RSMo 2000, the board withdraws a rule as follows:

5 CSR 50-340.110 Policies and Standards Relating to Academically Deficient Schools is withdrawn.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on May 1, 2002 (27 MoReg 693-694). This proposed amendment is withdrawn.

SUMMARY OF COMMENTS: During the review period of the joint committee on administrative rules, issues were raised questioning if the board was lowering audit standards for academically deficient schools.

RESPONSE: As a result, the board is withdrawing this rulemaking.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 10—Air Conservation Commission
Chapter 2—Air Quality Standards and Air Pollution Control Rules Specific to the Kansas City Metropolitan Area

ORDER OF RULEMAKING

By the authority vested in the Missouri Air Conservation Commission under section 643.050, RSMo 2000, the commission rescinds a rule as follows:

10 CSR 10-2.080 Emission of Visible Air Contaminants From Internal Combustion Engines is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on April 1, 2002 (27 MoReg 564). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Missouri Department of Natural Resources' Air Pollution Control Program received one (1) written comment from Ameren Services regarding this proposed rescission.

COMMENT: Ameren Services commented that they agree that this rule is obsolete and should be rescinded.

RESPONSE: The department's Air Pollution Control Program appreciates Ameren Services' support of this rule action. No changes were made as a result of this comment.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 10—Air Conservation Commission
Chapter 5—Air Quality Standards and Air Pollution Control Rules Specific to the St. Louis Metropolitan Area

ORDER OF RULEMAKING

By the authority vested in the Missouri Air Conservation Commission under section 643.050, RSMo 2000, the commission rescinds a rule as follows:

10 CSR 10-5.180 Emission of Visible Air Contaminants From Internal Combustion Engine is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on April 1, 2002 (27 MoReg 564). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Missouri Department of Natural Resources' Air Pollution Control Program received one (1) written comment from Ameren Services regarding this proposed rescission.

COMMENT: Ameren Services commented that they agree that this rule is obsolete and should be rescinded.

RESPONSE: The department's Air Pollution Control Program appreciates Ameren Services' support of this rule action. No changes were made as a result of this comment.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 10—Air Conservation Commission
Chapter 6—Air Quality Standards, Definitions, Sampling
and Reference Methods and Air Pollution Control
Regulations for the Entire State of Missouri

ORDER OF RULEMAKING

By the authority vested in the Missouri Air Conservation Commission under section 643.050, RSMo 2000, the commission amends a rule as follows:

10 CSR 10-6.130 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on April 15, 2002 (27 MoReg 622–626). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Missouri Department of Natural Resources' Air Pollution Control Program received comments from the Associated General Contractors of Missouri, Inc., the Missouri Limestone Producers Association, and the St. Louis Regional Chamber and Growth Association (RCGA). The comments focused on rule support, language, clarity, addition and changes.

COMMENT: The RCGA commented that the Environmental Protection Agency (EPA) acknowledges that the federal rule needs to be revised and would require the language in 10 CSR 10-6.130 that pertains to the federal rule to be updated in the future. They encourage Missouri to participate in the federal rulemaking and to undertake a major re-write of the rule after EPA completes its work.

RESPONSE: This rule action is only updating the obsolete Pollution Standards Index (PSI) to the new Air Quality Index (AQI). It is the department's Air Pollution Control Program's intention to participate in the federal rulemaking as appropriate and to update the rule language after the federal rule update is finalized by the EPA. Therefore, no changes were made as a result of this comment.

COMMENT: The RCGA commented to eliminate the restrictions in the rule that pertain to fuel ash, sulfur content, soot blowing and boiler lancing because these restrictions are not relevant to boiler operation with modern emission controls and they do not address the emissions that should be reduced in an ozone or fine particulate alert.

RESPONSE: The department's Air Pollution Control Program does not plan to eliminate any existing restrictions until we have had an opportunity to evaluate EPA's final federal rule. The purpose of this rule amendment is only to remove the obsolete PSI and replace it with the new AQI. This comment will be considered when the rule is updated to address the upcoming federal rule revisions. Therefore, no changes were made as a result of this comment.

COMMENT: The RCGA commented that section (4) Reporting and Record Keeping should be revised to delete references to subsection (3)(C)3. and red alert plans for facilities, which are not found in the red alert section of the proposed amendment.

RESPONSE AND EXPLANATION OF CHANGE: The department's Air Pollution Control Program has reviewed the rule for correct rule references and corrected the references in subparagraph (3)(D)3.I. and section (4).

COMMENT: The RCGA commented that section (4) should be limited to major sources of criteria pollutants because the term air contaminant emissions in the rule has broader meaning than the focus of the alert plan rule, which is for criteria pollutants only.

RESPONSE AND EXPLANATION OF CHANGE: The department's Air Pollution Control Program did not intend to broaden the scope of the alert plan rule and has added clarification language to section (4).

COMMENT: The Missouri Limestone Producers Association and Associated General Contractors of Missouri, Inc. commented that the Air Pollution Control Program cites 40 CFR 58.50 and Appendix G to part 58 as evidence supporting the need for this proposed rulemaking. 40 CFR 58.50 seems to indicate that state rules are required to be applicable only to metropolitan areas of greater than three hundred fifty thousand (350,000) population (or locations whose ambient air is directly affected by such metropolitan areas). If correct, they wonder if the Applicability section of the rule should clarify this.

RESPONSE AND EXPLANATION OF CHANGE: The department's Air Pollution Control Program agrees and has added language in new paragraph (3)(A)1. to read — The Air Quality Index shall be reported to the general public on a daily basis by all metropolitan statistical areas with a population exceeding three hundred fifty thousand (350,000).

COMMENT: The Missouri Limestone Producers Association commented that the Applicability section applies to all emissions from any source or from any premises. However, the General Provisions section restricts applicability to O₃, PM_{2.5}, PM₁₀, CO, CO₂ and NO₂. This should be clarified.

RESPONSE: The intent of the Applicability section is to establish that the rule applies to all sources of emissions including emissions that are precursors to ambient air pollutants. The General Provisions section specifies the ambient air pollutants that will be monitored and reported and what requirements may apply to the sources of the emissions. No changes were made as a result of this comment.

COMMENT: The Associated General Contractors of Missouri, Inc. commented that the Applicability section as written could apply to a single source of emissions in any area of the state. The type of controls proposed would appear to be directed toward widespread activities at multiple sites in an area rather than a single emissions source. However, the applicability indicates that a certain level of alert may be called and controls imposed based on a single emissions source. The intent should be clarified.

RESPONSE: The proposed amendment may apply to a single source or multiple sources. The Applicability section allows the director the discretion to determine the boundaries of the affected area. It is possible that a single source could cause an air pollution episode. Therefore, the proposed amendment is not specific to a single source or a group of sources. No changes were made as a result of this comment.

COMMENT: The Associated General Contractors of Missouri, Inc. and the Missouri Limestone Producers Association commented that 40 CFR part 58.50 contain no mention of a state air program's authority to control sources of emissions during any stage of alert. They question whether this is consistent with section 643.055 of the *Revised Statutes of Missouri*.

RESPONSE: As referenced in the purpose statement, CFR 58.50 is the correct reference for the amendment. It mandates the state to report to the general public through notice an air quality index in accordance with federal requirements. The purpose of this amendment is only to adopt the national reporting scheme which has replaced the old PSI. Therefore, no changes were made as a result of this comment.

COMMENT: The Associated General Contractors of Missouri, Inc. and the Missouri Limestone Producers Association commented that the higher alert stages allow quite dramatic alterations in behavior to be forced on various segments of our society. The Missouri Limestone Producers Association thinks authority for such government-mandated controls should be restricted to the Governor's Office and the Associated General Contractors of Missouri, Inc. thinks authority should be cited in the rule.

RESPONSE: The department's Air Pollution Control Program is only updating the obsolete Pollution Standards Index (PSI) to the new Air Quality Index (AQI). The requirements for alert procedures and alert plans are provisions of the existing rule. The Missouri Air Conservation Commission has authority for these provisions under the Missouri Air Conservation Law. No changes were made as a result of this comment.

COMMENT: The Associated General Contractors of Missouri, Inc. and the Missouri Limestone Producers Association commented that the terms sampling station and monitoring station are used throughout the rule needs to be corrected to one or the other for rule clarity.

RESPONSE AND EXPLANATION OF CHANGE: The department's Air Pollution Control Program agrees and has changed sampling station to monitoring station throughout the rule for rule uniformity.

COMMENT: The Missouri Limestone Producers Association commented that section (4) Reporting and Record Keeping allows the director to require certain facilities to file alert plans for control of emissions to be used in the event of initiation of various alert stages and in so doing renders the Private Cost statement completely erroneous.

RESPONSE: The department's Air Pollution Control Program is only updating the obsolete Pollution Standards Index (PSI) to the new Air Quality Index (AQI). The requirements for alert procedures and alert plans are provisions of the existing rule. Therefore, no new requirements or costs are being imposed on private entities. No changes were made as a result of this comment.

COMMENT: The Associated General Contractors of Missouri, Inc. commented that section (4) Reporting and Record Keeping allows the director to require certain facilities to file alert plans within sixty (60) days after request by the director. Without better definition of the purposes, applicability, methods, areas, and basis for such alerts it is difficult to tell where such plans may be required, should be clarified in the rule.

RESPONSE: At this time, the department's Air Pollution Control Program is only updating the obsolete Pollution Standards Index (PSI) to the new Air Quality Index (AQI). This comment will be considered when the rule is updated to address the upcoming federal rule revisions. Therefore, no changes were made as a result of this comment.

COMMENT: The Associated General Contractors of Missouri, Inc. commented that the term area needs to be defined in the rule because of its multiple uses throughout the rule.

RESPONSE AND EXPLANATION OF CHANGE: The department's Air Pollution Control Program agrees. Therefore a definition for the term area has been added to section (2) Definitions to read Area—For the purpose of this rule, any or all region within the boundaries of the state of Missouri.

COMMENT: During development of the order of rulemaking, paragraph (3)(A)2. corrections were noted. Note (3) of the AQI Table was missing a close parenthesis and the word—the—should be removed from — the 40 CFR part 58.

RESPONSE AND EXPLANATION OF CHANGE: These corrections have been made in the rule language.

10 CSR 10-6.130 Controlling Emissions During Episodes of High Air Pollution Potential

(2) Definitions.

(C) Area—For the purpose of this rule, any or all regions within the boundaries of the state of Missouri.

(D) Definitions of certain terms specified in this rule, other than those specified in this rule section, may be found in 10 CSR 10-6.020.

(3) General Provisions.

(A) Air Pollution Alerts.

1. The Air Quality Index shall be reported to the general public on a daily basis by all metropolitan statistical areas with a population exceeding three hundred fifty thousand (350,000).

2. Alert levels are stated in terms of the Air Quality Index (AQI) as defined in 40 CFR part 58, Appendix G, for sulfur dioxide (SO_2), carbon monoxide (CO), ozone (O_3), nitrogen dioxide (NO_2) and Particulate Matter—10 Micron (PM_{10}) and 2.5 Micron ($\text{PM}_{2.5}$). Table A shows the relation of the AQI breakpoint values to equivalent concentrations of air contaminants. All concentrations are averaged over the time period indicated.

Table A								
BREAKPOINT FOR THE AQI								
AQI	Alert Category	Alert Color	Breakpoint Values					
			O ₃ (ppm)	O ₃ (ppm)	PM _{2.5} (µg/m ³)	PM ₁₀ (µg/m ³)	CO (ppm)	SO ₂ (ppm)
			8-hour	1-hour ⁽¹⁾	24-hour	24-hour	8-hour	24-hour
0-50	Good	Green	0.000– 0.064	-----	0.0–15.4	0–54	0.0–4.4	0.000–0.034 (2)
51–100	Moderate	Yellow	0.065– 0.084	-----	15.5–40.4	55–154	4.5–9.4	0.035–0.144 (2)
101–150	Unhealthy for sensitive groups	Orange	0.085– 0.104	0.125–0.164	40.5–65.4	155–254	9.5–12.4	0.145–0.224 (2)
151–200	Unhealthy	Red	0.105– 0.124	0.165–0.204	65.5–150.4	255–354	12.5–15.4	0.225–0.304 (2)
201–300	Very Unhealthy	Purple	0.125– 0.374	0.205–0.404	150.5–250.4	355–424	15.5–30.4	0.305–0.604 0.65–1.24
301–400	Hazardous	Maroon	(3)	0.405–0.504	250.5–350.4	425–504	30.5–40.4	0.605–0.804 1.25–1.64
401–500	Hazardous	Maroon	(3)	0.505–0.604	350.5–500.4	505–604	40.5–50.4	0.805–1.004 1.65–2.04

(1) Areas are generally required to report the AQI based on eight (8)-hour ozone values. However, there are a small number of areas where an AQI based on one (1)-hour ozone values would be more precautionary. In these cases, in addition to calculating the eight (8)-hour ozone index value, the one (1)-hour ozone index value may be calculated, and the maximum of the two (2) values reported.

(2) NO₂ has no short-term National Ambient Air Quality Standard and can generate an AQI value only above two hundred (200).

(3) Eight (8)-hour O₃ values do not define higher AQI values (greater than or equal to three hundred one (301)). AQI values of three hundred one (301) or higher are calculated with one (1)-hour O₃ concentrations.

3. Alert types and levels of initiation.

A. Orange alert AQI value. Any one (1) of the contaminants listed in paragraph (3)(A)2. reaching a concentration which results in an AQI value of one hundred one to one hundred fifty (101–150) shall initiate the orange alert.

B. Red alert AQI value. Any one (1) of the contaminants listed in paragraph (3)(A)2. reaching a concentration which results in an AQI value of one hundred fifty-one to two hundred (151–200) shall initiate the red alert.

C. Purple alert AQI value. Any one (1) of the contaminants listed in paragraph (3)(A)2. reaching a concentration which results in an AQI value of two hundred one to three hundred (201–300) shall initiate the purple alert.

D. Maroon emergency alert AQI value. Any one (1) of the contaminants listed in paragraph (3)(A)2. reaching a concentration which results in an AQI value of three hundred one to five hundred (301–500) shall initiate the maroon emergency alert.

4. Declaration of alerts. An orange alert, red alert, purple alert or maroon emergency alert may be declared on the basis of deteriorating air quality alone; an Air Stagnation Advisory need not be in effect. The appropriate episode status should be declared by the director as ambient monitoring would indicate.

5. Termination of alerts. When, in the judgment of the director, meteorological conditions and pollutant concentrations warrant discontinuance of any alert condition, the director shall notify the technical staff, the chairman and members of the Missouri Air Conservation Commission that the alert has been discontinued and issue a public notice to that effect.

(B) Orange Alert.

1. Orange alert procedures shall be initiated by the director if the following conditions are met:

A. An Air Stagnation Advisory is in effect;

B. The orange alert AQI value is equaled or exceeded at any one (1) monitoring station within the affected area, unless there is a current forecast of meteorological improvement within the next twenty-four (24) hours; and

C. Meteorological conditions are such that the pollutant concentrations can be expected to remain or reoccur at the previously mentioned levels during the next twenty-four (24) or more hours or increase unless control actions are taken.

2. The following are orange alert procedures. The general public shall be informed through the news media that an orange alert exists, the geographical area(s) where the alert is applicable, the emission and type of source(s) that initiated the alert and encourage those with respiratory ailments or heart conditions to take the most appropriate and expedient precautions.

(C) Red Alert.

1. Red alert procedures shall be initiated by the director if the following conditions are met:

A. An Air Stagnation Advisory is in effect;

B. The red alert AQI value is equaled or exceeded at any one (1) monitoring station within the affected area, unless there is a current forecast of meteorological improvement within the next twenty-four (24) hours; and

C. Meteorological conditions are such that the pollutant concentrations can be expected to remain or reoccur at the previously mentioned levels during the next twenty-four (24) or more hours or increase unless control actions are taken.

2. The following are red alert procedures:

A. All affected governmental control agencies shall be notified that red alert conditions exist and that coordination of action is required;

B. All hospitals within the affected area shall be notified that red alert conditions exist;

C. The frequency of air monitoring shall be increased at all monitoring stations which are not continuous at intervals not exceeding one (1) hour, with continual hourly review at a central control location, if this equipment is available and it is deemed necessary by the director;

D. The general public shall be informed through the news media that a red alert exists, the geographical area(s) where the alert is applicable, the emission and type of source(s) that initiated the alert, individual abatement actions which will help alleviate the problem, and encourage those with respiratory ailments or heart conditions to take the most appropriate and expedient precautions;

E. The director shall request very emphatically through the news media that all unnecessary use of automobiles be restricted and that all entertainment functions and facilities be closed; and

F. No open burning will be allowed anywhere within the affected area.

(D) Purple Alert.

1. Purple alert procedures shall be initiated by the director if the following conditions are met:

A. An Air Stagnation Advisory is in effect; and

B. The purple alert AQI value is equaled or exceeded at any one (1) monitoring station within the affected area.

2. The purple alert also can be initiated if—

A. The purple alert AQI value is equaled or exceeded as the arithmetic mean for twelve (12) consecutive hours and an Air Stagnation Advisory is in effect; or

B. The red alert AQI value is equaled or exceeded as the arithmetic mean for twenty-four (24) consecutive hours and a forecast of stagnation for the following twelve (12) hours is received.

3. The following are purple alert procedures:

A. All affected governmental control agencies shall be notified that purple alert conditions exist and that coordination of action is required;

B. All hospitals within the affected area shall be notified that purple alert conditions exist;

C. The frequency of air monitoring shall be increased at all monitoring stations which are not continuous at intervals not exceeding one (1) hour with continual hourly review at a central control location, if this equipment is available and it is deemed necessary by the director;

D. The general public shall be informed through the news media that a purple alert exists, the geographical area(s) where the alert is applicable, the emission and type of source(s) that initiate the alert, individual abatement actions which will help alleviate the problem, and encourage those with respiratory ailments or heart conditions to take the most appropriate and expedient precautions;

E. Airlines operating within the purple alert area shall be notified that those conditions exist and that a reduction of flights out of the airport may be required;

F. Nonlocal vehicular traffic may be diverted around the purple alert area depending upon which pollutant(s) caused the alert;

G. Local vehicular traffic, through the news media, shall be told to avoid certain areas and emphatically told to restrict nonessential trips;

H. All incineration and open burning shall cease throughout the area; and

I. Facilities which are sources of air contaminant emissions and are required to file approved alert plans with the director for purple alert conditions shall initiate these plans upon notification by the director (see paragraph (3)(D)4.).

4. Purple alert plan objectives. AQI breakpoints from two hundred one to three hundred (201–300).

A. Air contaminant source. Electric power generating facilities—requirements for plan.

(I) Reduction of emission by utilization of fuels having low ash and sulfur content. Soot blowing and boiler lancing to be allowed only during periods of high atmospheric turbulence (12:00 noon to 4:00 p.m.).

(II) Reduction of emissions by diverting electric power generation to facilities outside of area for which the alert is called.

B. Air contaminant source. Process steam generating facilities—requirements for plan.

(I) Reduction of emissions by utilization of fuels having low ash and sulfur content. Soot blowing and boiler lancing to be allowed only during periods of high atmospheric turbulence (12:00 noon to 4:00 p.m.).

(II) Reduction of steam load demands consistent with continuing the operation of the plant.

C. Air contaminant source. Manufacturing industries of the following *Standard Industrial Classification Manual* (SIC) group designations: grain industries, group 20; paper and allied products industries, group 26; chemicals and allied products industries, group 28; petroleum refining and related industries, group 29; stone, glass, clay and concrete product industries, group 32; primary metal industries, group 33—requirements for plan.

(I) Curtailing, postponing or deferring production and allied operations. Stopping all trade waste disposal practices which emit particles, gases, vapors or malodorous substances including incineration.

(II) Reducing heat load demands for processing to a minimum.

D. Air contaminant source. Other manufacturing facilities required to submit alert plans by the director—requirements for plan.

(I) Reduction of air contaminant emissions by curtailing or deferring production and allied operations. Stoppage of all trade waste disposal practices which emit particles, gases, vapors or malodorous substances including incineration.

(II) Reduction of heat load demands for processing to a minimum.

E. Air contaminant source. Private, public and commercial refuse disposal operations—requirement for plan.

(I) Stoppage of all open burning including disposal of trees and burning at fire-fighting schools, except as required for disposal of hazardous materials or other emergency needs.

(II) Operation of incinerators shall be limited to the hours between 10:00 a.m. and 2:00 p.m.

F. Air contaminant source. Transportation—requirement for plan. The unnecessary operation of any motor vehicle should be restricted.

(E) Maroon Emergency Alert.

1. Maroon emergency alert procedures shall be initiated by the director, if the following conditions are met:

A. An Air Stagnation Advisory is in effect; and

B. The maroon emergency alert AQI value is equaled or exceeded at any one (1) monitoring station within the advisory area.

2. The maroon emergency procedures can also be initiated if—

A. The maroon emergency alert AQI value is equaled or exceeded as the arithmetic mean of twelve (12) consecutive hours and a forecast of stagnation for the following twelve (12) hours is received;

B. The purple alert AQI value is equaled or exceeded as the arithmetic mean for twenty-four (24) hours and a forecast of stagnation for the following twelve (12) hours is received; or

C. The red alert AQI value is equaled or exceeded as the arithmetic mean for thirty-six (36) hours and a forecast of stagnation for the following twelve (12) hours is received.

3. The following are maroon emergency alert procedures:

A. All affected governmental control agencies shall be notified that a maroon emergency alert exists and that coordination of action is required;

B. All hospitals within the affected area shall be notified that a maroon emergency alert exists and to be so prepared;

C. The frequency of air monitoring shall be increased at all monitoring stations which are not continuous at intervals not exceeding one-half (1/2) hour with continual half-hour review at a central control location, if this equipment is available and it is deemed necessary by the director;

D. Open burning and incineration shall cease throughout the area;

E. Facilities which are sources of air contaminant emissions and are required to have filed approved plans with the director shall initiate these plans upon notification by the director or his/her representative that air pollution emergency conditions exist (see paragraph (3)(E)4.);

F. The use of motor vehicles is prohibited except in emergencies with the approval of local or state police;

G. All manufacturing facilities except those listed in subparagraph (3)(E)3.E. shall institute action that will result in maximum reduction of air contaminants from their operations by ceasing, curtailing or postponing operations to the extent possible without causing injury to persons or damage to equipment;

H. All airplane flights originating within the area of the maroon emergency alert shall be cancelled;

I. All places of employment described as follows immediately shall cease operation during the maroon emergency alert:

- (I) Mining and quarrying;
- (II) Contract construction work;
- (III) Wholesale trade establishments;
- (IV) Schools and libraries;

(V) Governmental agencies except those needed to administer air pollution alert program and other essential agencies determined by the director to be vital for public safety and welfare and needed to administer the provisions of this rule;

(VI) Retail trade stores except those dealing primarily in sale of food or pharmacies;

(VII) Banks, real estate agencies, insurance offices and similar business;

(VIII) Laundries, cleaners and dryers, beauty and barber shops and photographic studios;

(IX) Amusement, recreational, gaming and entertainment service establishments;

(X) Automobile repair and automobile service garages; and

(XI) Advertising offices, consumer credit reporting, adjustment and collection agencies, printing and duplicating services, rental agencies and commercial testing laboratories; and

J. The general public shall be informed through the news media that a maroon emergency alert exists, the geographical area(s) where the alert is applicable, the emission and type of source(s) that initiated the alert, individual abatement actions which will help alleviate the problem and encourage those with respiratory ailments or heart conditions to take the most appropriate and expedient precautions.

4. Maroon emergency alert plan objectives. AQI breakpoints from three hundred one to four hundred (301–400). All purple alert plans shall be continued. In addition, the following measures shall be taken:

A. Air contaminant source. Process steam generating facilities—requirements for plan.

(I) Maximum reduction of air contaminant emissions by utilization of fuels having the lowest ash and sulfur content.

(II) Maximum utilization of periods of high atmospheric turbulence (12:00 noon to 4:00 p.m.) for soot blowing and boiler lancing. Prepare to implement the emergency plan submitted to the director;

B. Air contaminant source. Manufacturing industries of the following SIC group designations: grain industries, group 20; paper and allied products industries, group 26; chemicals and allied products industries, group 28; petroleum refining and related industries, group 29; stone, glass, clay and concrete product industries, group 32; primary metals industries, group 33—requirements for plan.

(I) Maximum reduction of air contaminant emissions by, if necessary, postponing production and allied operations.

(II) Maximum reduction of heat load demands for processing. Prepare to implement the emergency plan submitted to the director;

C. Air contaminant source. Other manufacturing facilities required to submit alert plans by the director—requirement for plan. Maximum reduction of air contaminant emissions, if necessary, by postponing production and allied operations;

D. Air contaminant source. Private, public and commercial refuse disposal operations—requirement for plan. Stop operation of all incinerators; and

E. Air contaminant source. Transportation—requirement for plan. Car pools and public transportation must be used in place of unnecessary motor vehicle operation.

5. Maroon emergency alert plan objectives. AQI breakpoints from four hundred one to five hundred (401–500). All purple alert plans and maroon emergency alert plan from AQI breakpoints three hundred one to four hundred (301–400) shall be continued. In addition, the following measures shall be taken:

A. Air contaminant source. Process steam generating facilities—requirements for plan.

(I) Maximum reduction of air contaminant emissions by reducing heat and steam load demands to values consistent with preventing equipment damage.

(II) Maximum utilization of periods of high atmospheric turbulence (12:00 noon to 4:00 p.m.) for soot blowing and boiler lancing;

B. Air contaminant source. Manufacturing industries of the following SIC group designations: grain industries, group 20; paper and allied products industries, group 26; chemicals and allied products industries, group 28; petroleum refining and related industries, group 29; stone, glass, clay and concrete product industries, group 32; primary metals industries, group 33—requirement for plan. Elimination of air contaminant from the manufacturing operations by ceasing, curtailing, postponing or deferring production and allied operations to the extent possible without causing injury to persons or damage to equipment;

C. Air contaminant source. Other manufacturing facilities required to submit alert plans by the director—requirements for plan.

(I) Elimination of air contaminant emissions from the manufacturing operations by ceasing, curtailing, postponing or deferring production and allied operations to the extent possible without causing injury to persons or damage to equipment.

(II) Maximum reduction of heat load demands for processing;

D. Air contaminant source. Private, public and commercial operations—requirement for plan. The following places of employment, if notified by the director, immediately shall cease operations: mining and quarrying operations; construction projects except as required to avoid emergent physical harm; manufacturing establishments except those required to have in force an air pollution alert plan; wholesale trade establishments; governmental units, except as required to implement the provisions of this rule and other operations essential to immediate protection of the public welfare and safety; retail trade and service establishments except pharmacies, food stores and other similar operations providing for emergency needs; other commercial service operations, such as those engaged in banking, insurance, real estate, advertising, and the like; educational institutions; and amusement, recreational, gaming and entertainment facilities;

E. Air contaminant source. Transportation—requirement for plan. Motor vehicles shall only be used for private and public emergency needs.

(4) Reporting and Record Keeping. Facilities which are sources of air contaminant emissions and required to file approved alert plans per paragraphs (3)(D)4., (3)(E)4. and (3)(E)5. shall file approved purple and maroon alert plans within sixty (60) days with the director after request by the director to submit alert plans.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 10—Air Conservation Commission
Chapter 6—Air Quality Standards, Definitions, Sampling and Reference Methods and Air Pollution Control Regulations for the Entire State of Missouri

ORDER OF RULEMAKING

By the authority vested in the Missouri Air Conservation Commission under section 643.050, RSMo 2000, the commission amends a rule as follows:

10 CSR 10-6.220 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on April 1, 2002 (27 MoReg 564–565). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Missouri Department of Natural Resources' Air Pollution Control Program received two comments from three sources; one from Ameren Services, one from Associated Electric Cooperative, Inc. (AEKI) and two from the Regulatory Environmental Group for Missouri (REGFORM).

COMMENT: AECI and REGFORM commented that the proposed amendment would eliminate a long-standing exemption for internal combustion engines operating in the outstate Missouri area.

RESPONSE AND EXPLANATION OF CHANGE: The department's Air Pollution Control Program did not intend this rulemaking to impose additional requirements on any entity. Subsection (1)(A) was restored including language that preserved the exemption for internal combustion engines operated in the outstate Missouri area.

COMMENT: Ameren Services and REGFORM commented that stationary internal combustion engines in the Kansas City and St. Louis metropolitan areas were exempt to 10 CSR 10-2.080 and 10 CSR 10-5.180 and that this amendment as proposed would impose new rule requirements on these sources.

RESPONSE AND EXPLANATION OF CHANGE: The department's Air Pollution Control Program did not intend this rulemaking to impose additional requirements on any entity. Subsection (1)(A) was restored including language that preserved the exemption for stationary internal combustion engines operated in the Kansas City and St. Louis metropolitan areas.

COMMENT: Staff noted that the rule title reference in subsection (1)(F) was incorrect.

RESPONSE AND EXPLANATION OF CHANGE: The title in subsection (1)(F) has been corrected.

10 CSR 10-6.220 Restriction of Emission of Visible Air Contaminants

(1) Applicability. This rule applies to all sources of visible emissions throughout the state of Missouri with the exception of the following:

(A) Internal combustion engines operated outside the Kansas City or St. Louis metropolitan areas and stationary internal combustion engines operated in the Kansas City or St. Louis metropolitan areas;

(B) Wood burning stoves or fireplaces used for heating;

(C) Fires used for recreational or ceremonial purposes or fires used for the noncommercial preparation of food by barbecuing;

(D) Fires used solely for the purpose of fire-fighter training;

(E) Smoke generating devices when a required permit (under 10 CSR 10-6.060 or 10 CSR 10-6.065) has been issued or a written determination that a permit is not required has been obtained;

(F) The pyrolysis of wood for the production of charcoal in batch-type charcoal kilns (Emissions from batch-type charcoal kilns shall

comply with the requirements of 10 CSR 10-6.330 Restriction of Emissions From Batch-Type Charcoal Kilns);

(G) Truck dumping of nonmetallic minerals into any screening operation, feed hopper or crusher;

(H) Emission sources regulated by 40 CFR part 60 and 10 CSR 10-6.070;

(I) Any open burning that is exempt from applicable open burning rules 10 CSR 10-2.100, 10 CSR 10-3.030, 10 CSR 10-4.090 and 10 CSR 10-5.070; and

(J) Incinerators used to burn refuse in the outstate area of Missouri.

Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 3—Records

ORDER OF RULEMAKING

By the authority vested in the Missouri Gaming Commission under sections 313.004, 313.805 and 313.847, RSMo 2000, the commission amends a rule as follows:

11 CSR 45-3.010 Commission Records is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 3, 2002 (27 MoReg 865). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—Division of Medical Services
Chapter 15—Hospital Program

ORDER OF RULEMAKING

By the authority vested in the director of the Division of Medical Services under sections 208.152, 208.153, 208.201 RSMo 2000 and 208.471, RSMo Supp. 2001, the director amends a rule as follows:

13 CSR 70-15.010 Inpatient Hospital Services Reimbursement Plan; Outpatient Hospital Services Reimbursement Methodology is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 3, 2002 (27 MoReg 894–897). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—Division of Medical Services
Chapter 15—Hospital Program

ORDER OF RULEMAKING

By the authority vested in the director of the Division of Medical Services under sections 208.201, 208.453 and 208.455, RSMo 2000, the director amends a rule as follows:

13 CSR 70-15.110 Federal Reimbursement Allowance (FRA) is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 3, 2002 (27 MoReg 898-899). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 16—RETIREMENT SYSTEMS
Division 50—The County Employees' Retirement Fund
Chapter 10—County Employees' Defined Contribution Plan

ORDER OF RULEMAKING

By the authority vested in the County Employees' Retirement Board under sections 50.1000, RSMo Supp. 2001 and 50.1210-50.1260, RSMo 2000 and Supp. 2001, the board amends a rule as follows:

16 CSR 50-10.010 Definitions is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 3, 2002 (27 MoReg 900). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 16—RETIREMENT SYSTEMS
Division 50—The County Employees' Retirement Fund
Chapter 10—County Employees' Defined Contribution Plan

ORDER OF RULEMAKING

By the authority vested in the County Employees' Retirement Board under sections 50.1000, RSMo Supp. 2001 and 50.1210-50.1260, RSMo 2000 and Supp. 2001, the board amends a rule as follows:

16 CSR 50-10.030 Contributions is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 3, 2002 (27 MoReg 900-901). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 16—RETIREMENT SYSTEMS
Division 50—The County Employees' Retirement Fund
Chapter 10—County Employees' Defined Contribution Plan

ORDER OF RULEMAKING

By the authority vested in the County Employees' Retirement Board under sections 50.1000, RSMo Supp. 2001 and 50.1210-50.1260, RSMo 2000 and Supp. 2001, the board amends a rule as follows:

16 CSR 50-10.040 Accounts of Participants is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 3, 2002 (27 MoReg 901). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 16—RETIREMENT SYSTEMS
Division 50—The County Employees' Retirement Fund
Chapter 10—County Employees' Defined Contribution Plan

ORDER OF RULEMAKING

By the authority vested in the County Employees' Retirement Board under sections 50.1000, RSMo Supp. 2001 and 50.1210-50.1260, RSMo 2000 and Supp. 2001, the board amends a rule as follows:

16 CSR 50-10.050 Distribution of Accounts is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 3, 2002 (27 MoReg 902-903). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 16—RETIREMENT SYSTEMS
Division 50—The County Employees' Retirement Fund
Chapter 10—County Employees' Defined Contribution Plan

ORDER OF RULEMAKING

By the authority vested in the County Employees' Retirement Board under sections 50.1000, RSMo Supp. 2001 and 50.1210-50.1260, RSMo 2000 and Supp. 2001, the board amends a rule as follows:

16 CSR 50-10.070 Vesting and Service is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 3, 2002 (27 MoReg 903). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 16—RETIREMENT SYSTEMS
Division 50—The County Employees' Retirement Fund
Chapter 20—County Employees' Deferred Compensation Plan

ORDER OF RULEMAKING

By the authority vested in the County Employees' Retirement Board under sections 50.1000, RSMo Supp. 2001 and 50.1210-50.1260, RSMo 2000 and RSMo Supp. 2001, the board amends a rule as follows:

16 CSR 50-20.030 Participation in the Plan is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 3, 2002 (27 MoReg 903). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 16—RETIREMENT SYSTEMS
Division 50—The County Employees' Retirement Fund
Chapter 20—County Employees' Deferred Compensation Plan

ORDER OF RULEMAKING

By the authority vested in the County Employees' Retirement Board under sections 50.1000, RSMo Supp. 2001 and 50.1210–50.1260, RSMo 2000 and RSMo Supp. 2001, the board amends a rule as follows:

16 CSR 50-20.050 Limitations on Deferral is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 3, 2002 (27 MoReg 903–904). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 16—RETIREMENT SYSTEMS
Division 50—The County Employees' Retirement Fund
Chapter 20—County Employees' Deferred Compensation Plan

ORDER OF RULEMAKING

By the authority vested in the County Employees' Retirement Board under sections 50.1000, RSMo Supp. 2001 and 50.1210–50.1260, RSMo 2000 and RSMo Supp. 2001, the board amends a rule as follows:

16 CSR 50-20.070 Distribution of Accounts is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 3, 2002 (27 MoReg 904–905). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 16—RETIREMENT SYSTEMS
Division 50—The County Employees' Retirement Fund
Chapter 20—County Employees' Deferred Compensation Plan

ORDER OF RULEMAKING

By the authority vested in the County Employees' Retirement Board under sections 50.1000, RSMo Supp. 2001 and 50.1210–50.1260,

RSMo 2000 and RSMo Supp. 2001, the board amends a rule as follows:

16 CSR 50-20.080 Death Benefits is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 3, 2002 (27 MoReg 905). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

This section may contain notice of hearings, correction notices, public information notices, rule action notices, statements of actual costs and other items required to be published in the *Missouri Register* by law.

**Title 19—DEPARTMENT OF HEALTH
AND SENIOR SERVICES**
**Division 60—Missouri Health Facilities
Review Committee**
Chapter 50—Certificate of Need Program

APPLICATION REVIEW SCHEDULE

The Missouri Health Facilities Review Committee has initiated review of the applications listed below. Decisions are tentatively scheduled for the November 18, 2002, Certificate of Need meeting. These applications are available for public inspection at the address shown below:

Date Filed

Project Number: Project Name
City (County)
Cost, Description

09/04/02

#3320 HS: Saint Luke's Hospital of Kansas City
Kansas City (Jackson County)
\$2,310,257, Add bi-plane angiographic unit

09/06/02

#3322 HS: St. John's Mercy Medical Center
St. Louis (St. Louis County)
\$2,682,897, Acquire PET/CT unit

#3295 HS: Forest Park Hospital
St. Louis (St. Louis City)
\$1,685,553, Acquire magnetic resonance imaging unit

Any person wishing to request a public hearing for the purpose of commenting on any of these applications must submit a written request to this effect, which must be received by October 7, 2002. All written requests and comments should be sent to:

Chairman
Missouri Health Facilities Review Committee
c/o Certificate of Need Program
915 G Leslie Boulevard
Jefferson City, MO 65101

For additional information contact
Donna Schuessler, 573-751-6403.

**Title 19—DEPARTMENT OF HEALTH
AND SENIOR SERVICES**
**Division 60—Missouri Health Facilities
Review Committee**
Chapter 50—Certificate of Need Program

EXPEDITED APPLICATION REVIEW SCHEDULE

The Missouri Health Facilities Review Committee has initiated review of the applications listed below. Decisions are tentatively

scheduled for October 25, 2002. These applications are available for public inspection at the address shown below:

Date Filed

Project Number: Project Name
City (County)
Cost, Description

09/03/02

#3321 RS: The Oaks
Kansas City (Jackson County)
\$200,000, Replace 36-bed residential care facility (RCF) II

09/06/02

#3319 HS: Audrain Medical Center
Mexico (Audrain County)
\$1,284,735, Replace computed tomography unit

#3315 RS: New Horizons Assistance Corp.
Kansas City (Jackson County)
\$10,000, Replace 18-bed RCF I

Any person wishing to request a public hearing for the purpose of commenting on any of these applications must submit a written request to this effect, which must be received by October 11, 2002. All written requests and comments should be sent to:

Chairman
Missouri Health Facilities Review Committee
c/o Certificate of Need Program
915 G Leslie Boulevard
Jefferson City, MO 65101

For additional information contact
Donna Schuessler, 573-751-6403.

OFFICE OF ADMINISTRATION
Division of Purchasing

BID OPENINGS

Sealed Bids in one (1) copy will be received by the Division of Purchasing, Room 580, Truman Building, PO Box 809, Jefferson City, MO 65102, telephone (573) 751-2387 at 2:00 p.m. on dates specified below for various agencies throughout Missouri. Bids are available to download via our homepage: www.moolb.state.mo.us. Prospective bidders may receive specifications upon request.

B1E03054 Paper Cutter 10/1/02
B1E03038 Moveable Wall Parts 10/2/02
B3E03061 Auctioneering Services 10/2/02
B1E03061 Aircraft Maintenance 10/4/02
B3E03067 Printing-2003 Wildlife Code of Missouri 10/4/02
B2Z03000 Fleet Management System 10/7/02
B3E03057 Trash Collection Services 10/8/02
B3Z03025 Governor's Conference on Workforce Development
10/8/02
B1E03053 Poultry Diagnostic Kits 10/9/02
B1E03065 Utility Vehicles 10/9/02
B3E03071 Radio Advertising 10/9/02
B3Z03038 Women's Re-Entry Program Services 10/9/02
B1E03066 Firearms 10/11/02
B1E03068 Utility Vehicles 10/11/02
B3E03070 TV Broadcast Time-TEL-LINK 10/14/02
B1E03064 Activity Bus 10/15/02
B1E03069 Electric Utility Vehicles 10/15/02
B3Z03036 Statewide Annual Assessment of English Proficiency
10/17/02
B3Z03049 Financial Reporting Services 10/17/02

It is the intent of the State of Missouri, Division of Purchasing to purchase the following as a single feasible source without competitive bids. If suppliers exist other than the one identified, contact (573) 751-2387 immediately.

- 1.) Trim Winders, supplied by Bell & Howell.
- 2.) Strobe Software Licensing Upgrade, supplied by Compuware Corporation.

James Miluski, CPPO,
Director of Purchasing

This cumulative table gives you the latest status of rules. It contains citations of rulemakings adopted or proposed after deadline for the monthly Update Service to the *Code of State Regulations*, citations are to volume and page number in the *Missouri Register*, except for material in this issue. The first number in the table cite refers to the volume number or the publication year—25 (2000), 26 (2001) and 27 (2002). MoReg refers to *Missouri Register* and the numbers refer to a specific *Register* page, R indicates a rescission, W indicates a withdrawal, S indicates a statement of actual cost, T indicates an order terminating a rule, N.A. indicates not applicable, RUC indicates a rule under consideration, and F indicates future effective date.

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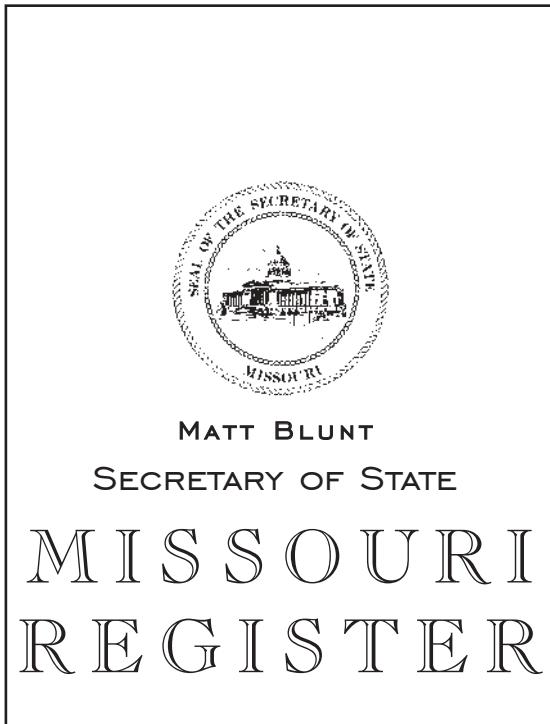
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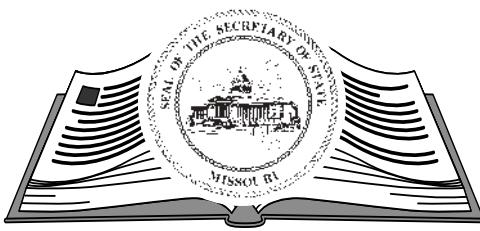
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